

ALABAMA LAWS
(and Joint Resolutions)
OF THE
LEGISLATURE OF ALABAMA
PASSED AT THE
REGULAR SESSION, 1994
VOL. 2



JIM FOLSOM, Governor
RYAN deGRAFFENRIED, President Pro-Tem and
Presiding Officer
JAMES S. CLARK, Speaker of the House
JAMES M. CAMPBELL, Speaker Pro-Tem of the House
McDOWELL LEE, Secretary of the Senate
GREG PAPPAS, Clerk of the House

WITH AN INDEX PREPARED BY THE
LEGISLATIVE REFERENCE SERVICE

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1994 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Jim Bennett
Secretary of State

PREFACE

Having served more than 15 years in the Alabama Legislature, I know the importance of keeping Alabamians in contact with their legislative process and informed of the bills that become laws or *Acts of the Alabama Legislature*.

As Secretary of State, I'm committed not only to the preservation of the acts as historical documents but also to making these new laws available to the public as quickly as they can be properly processed.

The acts bound in this volume are a picture of the issues citizens and their representatives considered important enough to become law during the 1994 Regular Session.

I hope you find the contents informative.

Jim Bennett
Secretary of State

ALABAMA LAWS
And Joint Resolutions
REGULAR SESSION, 1994

Act No. 94-485

H.J.R. 397 – Reps. Holley, Payne, Harper,
Perdue

HOUSE JOINT RESOLUTION

CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE TO PARTICIPATE IN THE DEVELOPMENT OF A SCHOOL DISTRIBUTION FORMULA.

WHEREAS, the Conference Committee on House Bill 193 has required the Joint Fiscal Committee to work with the Governor to develop a recommended distribution formula for the public schools of this state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a Joint Interim Committee is established to work with the Joint Fiscal Committee and the Governor to recommend a distribution formula to be presented to the Legislature for its consideration at the next Special or Regular Session. This committee shall be composed of ten members of the House of Representatives and ten members of the Senate, of which at least five shall be black and five shall be Republicans. The members of the committee shall be appointed by the Presiding Officer of each house and shall reflect gender and geographic diversity. It is the intent of the Legislature that this committee shall have equal responsibility with the Joint Fiscal Committee for the development of a distribution plan.

Each member may receive his or her regular legislative compensation, per diem, and travel expenses for each day the committee member attends a meeting of the Joint Interim Committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn as provided by law, provided that no member shall receive additional legislative compensation or per diem when the Legislature is in session or the member attends another legislative committee on that same day.

Approved April 14, 1994

Time: 4:01 P.M.

Act No. 94-486

H. 172 - Rep. Harper

AN ACT

To make appropriations for the ordinary expenses of the executive, legislative and judicial agencies of the State, for other functions of government, for debt service, and for capital outlay for the fiscal year ending September 30, 1995.

Be It Enacted by the Legislature of Alabama:

SECTION 1. The monies in Section 2 are appropriated from the named funds for the 1994-95 fiscal year to the state agencies indicated, as the amounts to be used to pay the expenditures of the named agencies, and are in lieu of all monies appropriated for these purposes in other sections of the Alabama Statutes.

For the purpose of this Act, the amounts herein for expenditures are listed by programmatic area and the totals for all programs are shown by the source of funds. It is intended that only the herein named funds be appropriated in the amounts specified to the named agencies; and that the following definitions shall be applicable:

(a) "Appropriation Total" shall mean the aggregate total of all fund sources.

(b) "Program" shall mean specific governmental services required to achieve a specific objective. A program shall be directed to meeting the need of an identified clientele, or group of recipients or beneficiaries and shall be expended only for such purposes.

(c) "Capital Outlay" shall mean expenditures which result in the acquisition and/or addition to items, such as land or buildings, which have an appreciable and calculable period of usefulness in excess of one year, and shall be expended only for such purposes.

(d) "Debt Service" shall mean an expenditure for the payment of interest and principal on bonded debt obligations of the State, and shall be expended only for such purposes.

(e) "Federal and Local Funds" shall mean all gifts, grants, contributions, or entitlements, including grants by the Congress of the United States, municipalities or counties.

SECTION 2. There is hereby appropriated for the ordinary expenses of the executive, legislative, and judicial agencies of the State, for other functions of government, for debt service, and for capital outlay for the fiscal year ending September 30, 1995, to be paid out of any monies hereinafter specified, from such other funds and accounts as may be designated, or so much thereof as may be necessary, and the total amount to be expended for the items for which the appropriation is herein made shall not exceed the amount provided therefor, except as provided in the Budget Management Act of 1976, Sections 41-19-1 through 12, Code of Alabama 1975. Provided,

however, that regardless of the ending date of any pay period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.

Fund Sources Included In Appropriation Total		
General Fund	Earmarked Funds	Appropriation Total
2A. LEGISLATIVE:		
1. EXAMINERS OF PUBLIC ACCOUNTS, DEPARTMENT OF:		
(a) Legislative Support-Audit Services Program		10,651,667
SOURCE OF FUNDS:		
(1) State General Fund	9,951,667	
(2) Transfer from Revenue Department	200,000	
(3) Federal Funds	500,000	
Total Department of Examiners of Public Accounts	9,951,667	10,651,667
2. LAW INSTITUTE, ALABAMA:		
(a) Support of Other Educational Activities Program		337,603
SOURCE OF FUNDS:		
(1) State General Fund	337,603	
Total Alabama Law Institute ..	337,603	337,603
3. LEGISLATIVE COUNCIL:		
(a) Legislative Operations and Support Program		288,347
(b) National Black Caucus of State Legislatures National Conference to be held in Birmingham		55,000
SOURCE OF FUNDS:		
(1) State General Fund	343,347	
Pursuant to Sections 29-6-1 et seq., Code of Alabama 1975.		
Total Legislative Council	343,347	343,347

4. LEGISLATIVE FISCAL OFFICE:

(a) Legislative Operations and Support Program	1,202,101
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SOURCE OF FUNDS:

(1) State General Fund	<u>1,202,101</u>	
Total Legislative Fiscal Office	<u>1,202,101</u>	<u>1,202,101</u>

5. LEGISLATIVE REFERENCE SERVICE:

(a) Legislative Operations and Support Program	1,797,049
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SOURCE OF FUNDS:

(1) State General Fund	<u>1,797,049</u>	
Total Legislative Reference Service	<u>1,797,049</u>	<u>1,797,049</u>

6. LEGISLATURE:

(a) Legislative Operations and Support Program	13,642,128
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It is the intent of the Legislature that (1) at least \$30,000 shall be allocated for the Senate Finance and Taxation Committee, \$30,000 shall be allocated for the Office of the Senate Pro Tempore and \$30,000 shall be allocated for the Senate Rules Committee, (2) at least \$90,000 shall be allocated for the Ways and Means Committee, the House Rules Committee and the office of the Speaker of the House and (3) \$7,000 shall be allocated to the permanent municipal government committee as required by Sections 29-2-60 through 29-2-62, Code of Alabama 1975. The appropriation to the Legislature shall be expended under the provisions set forth in Section 29-1-22, Code of Alabama 1975.

(b) Capital Outlay Program	1,500,000
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SOURCE OF FUNDS:

(1) State General Fund	<u>15,142,128</u>	
Total Legislature.....	<u>15,142,128</u>	<u>15,142,128</u>

2B. JUDICIAL:**1. COURT OF CIVIL APPEALS:**

(a) Court Operations Program .		2,037,106
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SOURCE OF FUNDS:

(1) State General Fund	<u>2,037,106</u>	
Total Court of Civil Appeals....	<u>2,037,106</u>	<u>2,037,106</u>

The above appropriation to the Court of Civil Appeals includes funds for Sections 12-3-1 and 12-3-10, Code of Alabama 1975.

2. COURT OF CRIMINAL APPEALS:

(a) Court Operations Program.		2,335,226
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SOURCE OF FUNDS:

(1) State General Fund	<u>2,335,226</u>	
Total Court of Criminal Appeals.....	<u>2,335,226</u>	<u>2,335,226</u>

3. JUDICIAL BUILDING AUTHORITY, ALABAMA:

(a) Administrative Support Services Program		4,147,431
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SOURCE OF FUNDS:

(1) Judicial Building Authority Fund, Estimated.....	4,147,431	
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In accordance with Sections 41-10-260 through 41-10-284, Code of Alabama 1975.

Total Alabama Judicial Building Authority.....	<u>4,147,431</u>	<u>4,147,431</u>
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4. JUDICIAL INQUIRY COMMISSION:

(a) Administrative Services Program.....		118,200
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SOURCE OF FUNDS:

(1) State General Fund	118,200	
Total Judicial Inquiry Commission.....	118,200	118,200

5. JUDICIAL RETIREMENT FUND:

(a) Retirement Systems Program.....	1,625,000
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SOURCE OF FUNDS:

(1) State General Fund	1,625,000	
Total Judicial Retirement Fund.....	1,625,000	1,625,000

6. SUPREME COURT:

(a) Court Operations Program .	5,080,872
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SOURCE OF FUNDS:

(1) State General Fund	5,080,872	
Total Supreme Court	5,080,872	5,080,872

7. SUPREME COURT LIBRARY:

(a) Court Operations - Library Service Program.....	937,683
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SOURCE OF FUNDS:

(1) State General Fund	892,683	
(2) Departmental Receipts.....	45,000	
Total Supreme Court Library..	892,683	937,683

8. UNIFIED JUDICIAL SYSTEM:

(Administrative Office of Courts)

(a) Court Operations Program .	76,056,826
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Of the above appropriation for the Court Operations Program, \$2,595,000 shall be conditioned upon deposits to the State General Fund from court costs and fines equaling or exceeding \$40,500,000

for the 1994-95 fiscal year. The conditional appropriation of \$2,595,000 may be released on a quarterly basis if the Director of Finance certifies each quarter that deposits to the State General Fund from court costs and fines are being deposited at the rate necessary to reach \$40,500,000 by September 30, 1995. During any quarter the Director of Finance may, in addition to certifying and releasing funds for that quarter, certify and release funds for any previous quarter for which he did not certify and release funds.

(b) Administrative Services Program	3,649,750
(c) DUI Referral Program	67,658
(d) Fringe Benefit Program, Estimated	545,000
(e) Court Equipment and Court Security Program	1,029,952
(f) Judicial Building Operations Program	4,147,431

SOURCE OF FUNDS:

(1) State General Fund	82,701,119
(2) State General Fund-Social Security-County Judicial, Estimated	545,000
(3) State General Fund Transfer - Juvenile Justice Coordinating Council	17,105

In accordance with Section 12-15-131, Code of Alabama 1975.

(4) Court Referral Officer Fund	1,597,410
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In accordance with Sections
12-23-1 through 12-23-19,
Code of Alabama 1975.

(5) Juvenile Justice Fund – Balance Brought Forward	35,983
(6) Court Automation Fund....	600,000

In accordance with Section
12-19-180, Code of Alabama
1975.

Total Unified Judicial System.	<u>83,263,224</u>	<u>2,233,393</u>	<u>85,496,617</u>
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The above appropriation to the Unified Judicial System includes funding for Act 93-882 and new supernumerary positions. The above appropriation shall not be used to fund any district or circuit judgeships other than those in existence or authorized by law as of January 1, 1994. The Unified Judicial System shall not reduce salaries below the level set by the pay classification plan in effect at the time of enactment of this act. In addition to the above appropriation to the Unified Judicial System, there is hereby appropriated \$1,000,000 for the furnishing of the Mobile County Courthouse from the State General Fund to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

2C. EXECUTIVE:

1. ACADEMY OF HONOR, ALABAMA:

(a) Historical Resources Management Program.....

2,200

SOURCE OF FUNDS:

(1) State General Fund	2,200	
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As provided in Section 41-11-6, Code of Alabama 1975, and an additional amount.

Total Alabama Academy of Honor		
	<u>2,200</u>	<u>2,200</u>

2. ACCOUNTANCY, ALABAMA STATE BOARD OF PUBLIC:

(a) Professional and Occupational Licensing and Regulation Program		639,712
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SOURCE OF FUNDS:

(1) Alabama State Board of Public Accountancy Fund	639,712	
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As provided in Section 34-1-22, Code of Alabama 1975. In addition to the amounts appropriated hereinabove to the State Board of Public Accountancy, there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or withdrawn by request of applicant.

Total Alabama State Board of Public Accountancy		
	<u>639,712</u>	<u>639,712</u>

3. ADJUSTMENT, BOARD OF:

(a) Special Services Program ..		517,960
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	506,160	
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For expenditures as provided in Sections 31-3-2 and 36-30-2, Code of Alabama 1975.

(2) State General Fund-Administrative Costs	11,800		
As provided by Section 41-9-73, Code of Alabama 1975.			
Total Board of Adjustment	517,960		517,960
4. AERONAUTICS, DEPARTMENT OF:			
(a) Aeronautical Administration Program			408,244
(b) Airport Improvement Program.....			566,756
To be used only as grants for federal match to airports qualifying under the FAA National Plan of Integrated Airport Systems.			
(c) Civil Air Patrol Program ...			46,500
SOURCE OF FUNDS:			
(1) State General Fund-Civil Air Patrol.....	46,500		
(2) Airport Development Fund-Aviation Fuel Tax		950,000	
As provided by Section 4-2-42, Code of Alabama 1975.			
(3) Airport Development Fund-Federal Funds		25,000	
Total Department of Aeronautics	46,500	975,000	1,021,500
5. AGING, COMMISSION ON:			
(a) Planning and Advocacy for the Elderly Program			18,075,335
Of the above appropriation, \$40,000 shall be allocated to the Wicksburg Senior Citizen Center.			
(b) Economic Assistance Program.....			12,712,308

SOURCE OF FUNDS:

(1) State General Fund	1,652,156		
(2) State General Fund-Medicaid Waiver	2,603,812		
(3) Federal and Local Funds....		26,531,675	
Total Commission on Aging.....	4,255,968	26,531,675	30,787,643

The Commission on Aging shall contract with the existing Regional Planning Commissions or Councils of Local Governments and/or Area Agencies on Aging to provide services for one-third of the State's present and future client slots for the program known as the "Medicaid Waiver Services Program-Home and Community-Based Waiver for the Elderly and Disabled." The Commission on Aging shall not withdraw Area Agency on Aging designations or alter the funding relationships with existing Area Agencies on Aging and Regional Planning Development Commissions or Councils of Local Governments without the approval of the Board of Directors of the Alabama Commission on Aging and complying with all federal and state statutory and regulatory requirements. In addition to the above appropriation, there is hereby appropriated \$200,000 to the Commission on Aging from the State General Fund to be conditioned upon the availability of funds, the recommendation of the Director of Finance and the approval of the Governor.

**6. AGRICULTURAL AND
CONSERVATION DEVELOPMENT
COMMISSION:**

(a) Water Resource Development Program	1,849,499
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	1,774,499	
(2) Alabama Agricultural and Conservation Development Commission Revolving Fund.		75,000

As provided in Section 9-8A-4.1, Code of Alabama 1975.

Total Agricultural and Conservation Development Commission.....	1,774,499	75,000	1,849,499
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**7. AGRICULTURAL AND
INDUSTRIAL EXHIBIT
COMMISSION, ALABAMA:**

(a) Agricultural Development Services Program	41,235
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SOURCE OF FUNDS:

(1) State General Fund	41,235
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Total Alabama Agricultural and Industrial Exhibit Commission	41,235	41,235
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8. AGRICULTURAL CENTER BOARD:

(a) Agricultural Development Services Program	1,068,444
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(b) Alabama Equine Study Program	10,000
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SOURCE OF FUNDS:

(1) State General Fund	147,016
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For expense and awarding of prizes for fairs as provided in Section 2-7-21, Code of Alabama 1975 and other livestock shows and exhibits and other activities.

(2) State General Fund- Operations.....	343,379		
(3) State General Fund- Livestock Coliseum.....	193,049		
(4) State General Fund- Alabama Equine Study Program.....	10,000		
(5) Livestock Coliseum Fund...		385,000	
Total Agricultural Center Board	693,444	385,000	1,078,444
9. AGRICULTURE AND IN- DUSTRIES, DEPARTMENT OF:			
(a) Administrative Services Program.....		2,229,855	
(b) Agricultural Inspection Services Program		11,430,290	
Of the above appropriation, \$75,000 shall be transferred to the Alabama Aquaculture Center in Gadsden, Alabama and \$783,256 shall be ear- marked for the plant protec- tion division.			
(c) Laboratory Analysis and Disease Control Program.....		4,419,634	
(d) Agricultural Development Services Program		1,599,384	
Of the above appropriation, \$25,000 shall be allocated for a small farms program and \$36,000 shall be allocated for repair of the Coliseum in Florence.			
(e) Boll Weevil Eradication Program.....		1,600,000	
In addition to the above appropriation for the Boll Weevil Eradication Program, there is hereby appropriated \$1,000,000 to be conditioned			

upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

SOURCE OF FUNDS:

(1) State General Fund	9,152,595		
(2) Federal and Local Funds...		2,544,794	
(3) Shipping Point Inspection Fund.....		4,681,774	
Pursuant to Sections 2-9-20 et seq., Code of Alabama 1975.			
(4) Agricultural Fund.....		4,900,000	
Total Department of Agriculture and Industries	9,152,595	12,126,568	21,279,163

In addition to the above appropriation to the Department of Agriculture and Industries, there is hereby appropriated (1) \$200,000 for the control of hog cholera and swine diseases; (2) \$150,000 to the Agricultural Development Services Program; and (3) \$50,000 for a Diagnostic Lab in Elba, to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

10. AIRPORT AUTHORITY, ALABAMA INTERNATIONAL:

(a) Airport Development and Aeronautical Support Program.....	30,000
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SOURCE OF FUNDS:

(1) State General Fund	30,000	
Total Alabama International Airport Authority	30,000	30,000

11. AGRICULTURAL MUSE- UM BOARD, ALABAMA:

(a) Agricultural Promotional Program	100,000
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SOURCE OF FUNDS:

(1) State General Fund	100,000	
Total Alabama Agricultural Museum Board	100,000	100,000

12. ALABAMA TRUST FUND BOARD:

(a) Administrative Program ...	29,595
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SOURCE OF FUNDS:

(1) State General Fund	29,595	
Total Alabama Trust Fund Board	29,595	29,595

13. ALCOHOLIC BEVER- AGE CONTROL BOARD, ALABAMA:

(a) Product Management Program	33,111,130
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(b) Enforcement Program	10,978,527
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The level and type of services to be provided by the Alcoholic Beverage Control Board for the Enforcement Program in fiscal year 1994-95 shall not be reduced below the level of services provided in this program in fiscal year 1993-94.

(c) Administrative Services Program	4,765,618
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The appropriation to the Alabama Alcoholic Beverage Control Board shall include a transfer to the Department of Mental Health of \$1,000,000, a transfer to the Department of Public Safety of \$2,000,000, and a transfer

to the State General Fund of \$7,028,368. The above transfers shall be made from the operating funds of the Alcoholic Beverage Control Board and shall not affect any distribution of revenue generated from the sale of alcoholic beverages.

SOURCE OF FUNDS:

(1) ABC Board Fund	48,855,275
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In addition to the above appropriations herein made, there is hereby appropriated for each additional retail store put into operation during the fiscal year, an amount equal to the sum required to install and operate the last comparable retail store put into operation by said Board. There is further appropriated to the Alabama Alcoholic Beverage Control Board, after provision has been made for the other expenditures herein authorized. such sums as are or may be necessary to purchase the alcoholic beverages which are essential to maintain adequate stocks and inventory for an economic and successful sales operation. In addition to the above appropriation, it is further provided that, in the event any county or municipality of the State shall, during the fiscal period covered by this appropriation by proper referendum, authorize the legal sale of malt and brewed beverages within such county or municipality there is further appropriated, in addition to the amount herein set out,

an amount comparable to that expended during the prior fiscal year for beer and license tax supervision within counties or municipalities of similar size and population. Provided, further that the amount appropriated herein shall be reduced in like manner in the event any county or municipality wherein malt and brewed beverages are now authorized by law to be sold shall, during the fiscal period covered by this appropriation by proper referendum, declare unlawful the sale in such county or municipality of such malt or brewed beverages.

Total Alabama Alcoholic Beverage Control Board.....

48,855,275 48,855,275

14. ARCHITECTS, BOARD FOR REGISTRATION OF:

(a) Professional and Occupational Licensing and Regulation Program

252,500

SOURCE OF FUNDS:

(1) Fund of the Board for Registration of Architects.....

252,500

As provided in Section 34-2-41, Code of Alabama 1975.

Total Board for Registration of Architects

252,500 252,500

15. ARCHIVES AND HISTORY, DEPARTMENT OF:

(a) Historical Resources Management Program.....

3,031,181

SOURCE OF FUNDS:

(1) State General Fund.

2,701,216

(2) Federal and Local Funds...

279,965

(3) Archives Historical Collections Fund.....	10,000		
In accordance with Section 41-6-71, Code of Alabama 1975.			
(4) Archives Services Fund.....	40,000		
In accordance with Section 41-6-76, Code of Alabama 1975.			
Total Department of Archives and History.....	<u>2,701,216</u>	<u>329,965</u>	<u>3,031,181</u>
16. ATTORNEY GENERAL, OFFICE OF THE:			
(a) Legal Advice and Legal Services Program.....		11,422,322	
(b) Fair Marketing Practices Program.....		1,309,806	
SOURCE OF FUNDS:			
(1) State General Fund.....	5,983,935		
(2) State General Fund - Drug Program.....	110,000		
(3) State General Fund - Consumer Protection	509,806		
(4) Federal Funds.....		1,299,989	
(5) Miscellaneous Receipts.....		4,628,398	
(6) Attorney General's Litigation Support Fund.....		200,000	
In accordance with Section 36-15-4.2, Code of Alabama 1975.			
Total Office of the Attorney General.....	<u>6,603,741</u>	<u>6,128,387</u>	<u>12,732,128</u>
17. AUCTIONEERS, ALABAMA STATE BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program			121,686
SOURCE OF FUNDS:			
(1) State Board of Auctioneers Fund.....		121,686	

Total Alabama State Board of Auctioneers.....	121,686	121,686
18. AUDITOR, STATE:		
(a) Fiscal Management Program.....		585,830
SOURCE OF FUNDS:		
(1) State General Fund	585,830	
Total State Auditor	585,830	585,830
19. BANKING DEPARTMENT, STATE:		
(a) Charter, License and Regulate Financial Institutions Program		4,070,465
(b) Capital Outlay Program		35,000
SOURCE OF FUNDS:		
(1) Banking Assessment Fees..	3,413,140	
As provided in Section 5-2A-20, Code of Alabama 1975.		
(2) Loan Examination Fund ...	692,325	
As provided in Sections 5-2A-24, 5-16-38.1, and 5-18-5, Code of Alabama 1975.		
Total State Banking Department.....	4,105,465	4,105,465
20. BAR ASSOCIATION, ALABAMA STATE:		
(a) Professional and Occupational Licensing and Regulation Program		2,472,152
SOURCE OF FUNDS:		
(1) State Bar Association Fund.....	2,175,494	
As provided in Sections 34-3-4 and 34-3-44. Code of Alabama 1975.		

(2) Federal and Local Funds...	296,658		
As provided in Sections 34-3-44, 34-3-17 and 34-3-18, Code of Alabama 1975.			
Total Alabama State Bar Association	2,472,152	2,472,152	
21. BEAR CREEK DEVELOPMENT AUTHORITY:			
(a) Water Resource Development Program		44,975	
SOURCE OF FUNDS:			
(1) State General Fund	44,975		
Total Bear Creek Development Authority.....	44,975	44,975	
22. BUILDING COMMISSION, STATE:			
(a) Special Services Program..		1,394,514	
SOURCE OF FUNDS:			
(1) State General Fund	779,514		
(2) Miscellaneous Funds		615,000	
Total State Building Commission.....	779,514	615,000	1,394,514
23. BUILDING RENOVATION FINANCE AUTHORITY, ALABAMA:			
(a) Administrative Support Services Program		8,000,825	
SOURCE OF FUNDS:			
(1) State General Fund-Transfer	1,065,506		
(2) Departmental Receipts, Estimated		6,935,319	
Total Alabama Building Renovation Finance Authority.....	1,065,506	6,935,319	8,000,825
24. CAHAWBA ADVISORY COMMITTEE:			
(a) Historical Resources Management Program.....		19,036	

SOURCE OF FUNDS:

(1) State General Fund	19,036		
Total Cahawba Advisory Committee	19,036		19,036

25. CHILD ABUSE AND NEGLECT PREVENTION BOARD:

(a) Social Services Program			929,304
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In accordance with Sections 26-16-1 et seq., Code of Alabama 1975.

SOURCE OF FUNDS:

(1) State General Fund-Transfer	423,304		
(2) Children's Trust Fund, Estimated		506,000	
Total Child Abuse and Neglect Prevention Board	423,304	506,000	929,304

26. CHIROPRACTIC EXAMINERS, ALABAMA STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program			152,000
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SOURCE OF FUNDS:

(1) Alabama State Board of Chiropractic Examiner's Fund.	152,000		
As provided in Section 34-24-143, Code of Alabama 1975.			
Total Alabama State Board of Chiropractic Examiners	152,000		152,000

27. CHOCCOLOCCO CREEK WATERSHED CONSERVANCY DISTRICT:

(a) Water Resource Development Program			23,250
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SOURCE OF FUNDS:

(1) State General Fund	23,250		
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Total Choccolocco Creek Watershed Conservancy District	23,250	23,250
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28. CHOCTAWHATCHEE-PEA RIVERS WATERSHED MANAGEMENT AUTHORITY:

(a) Water Resource Development Program	147,144
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SOURCE OF FUNDS:

(1) State General Fund	147,144
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Total Choctawhatchee-Pea Rivers Watershed Management Authority.....	147,144	147,144
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29. CHOCTAWHATCHEE-PEA RIVERS WATERSHED MANAGEMENT AUTHORITY:

(a) Water Resource Development Program	100,000
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SOURCE OF FUNDS:

(1) State General Fund	100,000
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Total Choctawhatchee-Pea Rivers Watershed Management Authority.....	100,000	100,000
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The above appropriation is for an Early Warning Flood Control System and is conditioned upon receiving federal matching funds for said purpose.

30. CONSERVATION AND NATURAL RESOURCES, DEPARTMENT OF:

(a) State Land Management Program.....	1,821,935
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(b) Outdoor Recreation Sites and Services Program.....	29,950,772
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Of the above appropriation, \$25,000 shall be expended at Monte Santo State Park.

(c) Marine Police Program	5,042,132
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(d) Wildlife Game and Fish Program	18,769,581
(e) Marine Resources Program	2,650,679
(f) Administrative Services Program	4,192,944
(g) Capital Outlay Program....	1,158,000

The appropriation to the Department of Conservation and Natural Resources shall include Alabama's pro rata share of the Gulf States Marine Fisheries Commission operation expenses. The appropriation to the Department of Conservation and Natural Resources includes funds for the maintenance, staff and repair of the Governor's official beach mansion.

SOURCE OF FUNDS:

(1) State General Fund-Transfer-Parks	762,047
(2) State General Fund-Transfer-Game and Fish Fund.....	146,931
To implement the provisions of Federal Regulation 50CFR 80.4(a)(3).	
(3) Game and Fish Fund-Licenses, Fines, Fees, Interest Income and Other Departmental Receipts	13,764,650
(4) Game and Fish Fund-Federal and Local Funds	5,878,000
(5) State Lands Fund	1,821,935

The funds hereinabove appropriated from the State Lands Fund include funds for analyzing, cataloging and monitoring mineral reserves and

the development thereof on State lands including water and offshore areas.

(6) Marine Resources Fund-Licenses, Taxes, Fines and Other Departmental Receipts.	1,800,679
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(7) Marine Resources Fund-Federal and Local Funds.....	900,000
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In addition to the monies hereinabove appropriated from the Marine Resources Fund, all monies derived from contracts, grants or other agreements concerning or relating to marine biological research performed or accomplished at the Marine Resources Division Laboratory at Dauphin Island are hereby appropriated and may be expended by the Commissioner of Conservation on such Marine Resources Division programs or projects which he deems appropriate.

(8) Marine Police Fund-Licenses, Fines, Taxes and Other Departmental Receipts.	4,330,132
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(9) Marine Police Fund-Federal and Local Funds	800,000
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(10) State Parks Fund.....	929,934
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(11) Parks Revolving Fund, Estimated	24,258,791
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(12) State Parks Fund-Cigarette Tax	4,000,000
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(13) Administrative Funds	4,192,944
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The funds hereinabove appropriated shall be payable as provided in Sections 9-2-1 et seq.. Code of Alabama 1975.

Total Department of Conservation and Natural Resources ...	908,978	62,677,065	63,586,043
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31. CONTRACTORS, STATE LICENSING BOARD FOR GENERAL:

- (a) Professional and Occupational Licensing and Regulation Program

654,011

SOURCE OF FUNDS:

- (1) State Licensing Board for General Contractors Fund.....

654,011

Pursuant to Section 34-8-25, Code of Alabama 1975. In addition to the amounts appropriated hereinabove to the State Licensing Board for General Contractors, there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or application withdrawn by request of applicant.

Total State Licensing Board for General Contractors

654,011

654,011

32. CORRECTIONS, DEPARTMENT OF:

- (a) Administrative Services and Logistical Support Program.....

10,241,885

- (b) Institutional Services Corrections Program.....

135,185,517

At least \$300,000 of the above appropriation shall be expended to upgrade equipment and the training facility at the state boot camp.

- (c) Correctional Agricultural and Industries Program

17,445,933

The Department of Corrections shall not utilize any portion of its State General Fund appropriation to support the Correctional Industries Program.

Of the above appropriation for the Correctional Industries Program, \$400,000 shall be expended for the Community Corrections Program.

(d) Capital Outlay Program.... 675,000

SOURCE OF FUNDS:

(1) State General Fund 137,968,334
 (2) Department of Corrections Industrial Revolving Fund 17,548,933

The Commissioner of the Department of Corrections is authorized to utilize funds herein appropriated as matching contributions, where required and appropriate, to generate additional funds which would effectively increase the appropriations for the Department of Corrections. Any such grant funds so generated and in direct support of the Department of Corrections' operations are also hereby appropriated. Of this appropriation, \$400,000 shall be expended for the Community Corrections Program.

(3) Drug Demand Reduction Fund..... 214,684

In accordance with Section 13A-12-283, Code of Alabama 1975.

(4) Federal Funds..... 816,384

(5) Departmental Receipts..... 7,000,000

Total Department of Corrections 137,968,334 25,580,001 163,548,335

In addition to the above appropriation to the Department of Corrections, there is hereby appropriated

\$1,400,000 for Community Corrections to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

33. COSMETOLOGY, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program.....	640,900
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SOURCE OF FUNDS:

(1) Alabama Board of Cosmetology Fund.....	640,900
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As provided in Section 34-7-42, Code of Alabama 1975.

Total Alabama Board of Cosmetology	640,900	640,900
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34. COUNSELING, ALABAMA BOARD OF EXAMINERS IN:

(a) Professional and Occupational Licensing and Regulation Program	187,450
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SOURCE OF FUNDS:

(1) Alabama Board of Examiners in Counseling Fund	187,450
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As provided in Section 34-8A-6, Code of Alabama 1975.

Total Alabama Board of Examiners in Counseling	187,450	187,450
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35. CREDIT UNION ADMINISTRATION, ALABAMA:

(a) Charter, License and Regulate Financial Institutions Programs	643,359
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SOURCE OF FUNDS:

(1) Alabama Credit Union Administration Fund.....	643,359
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As provided in Section 5-17-7,
Code of Alabama 1975.

Total Alabama Credit Union Administration	643,359	643,359
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**36. CRIME VICTIMS COM-
PENSATION COMMISSION,
ALABAMA:**

(a) Special Services Program, Estimated	1,128,100
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SOURCE OF FUNDS:

(1) Alabama Crime Victims Compensation Commission Fund, Estimated	1,128,100
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To be expended in accordance
with Sections 15-23-1
through 15-23-23, Code of
Alabama 1975.

Total Alabama Crime Victims Compensation Commission ...	1,128,100	1,128,100
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**37. CRIMINAL JUSTICE
INFORMATION CENTER,
ALABAMA:**

(a) Criminal Justice Informa- tion Services Program	4,391,540
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SOURCE OF FUNDS:

(1) State General Fund	2,585,865
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(2) Miscellaneous Receipts	8,000
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(3) Federal and Local Funds ...	1,797,675
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Total Alabama Criminal Justice Information Center ...	2,585,865	1,805,675	4,391,540
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**38. DEVELOPMENT OFFICE,
ALABAMA:**

(a) Promotional Development Program-Alabama Film Commission	250,551
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(b) Administrative Services Program	273,420
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(c) Industrial Development Program-Alabama Develop- ment Office	4,931,943
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Of the above appropriation,
\$5,000 shall be transferred to
the Wiregrass Leadership, Inc.

SOURCE OF FUNDS:

(1) State General Fund- Alabama Development Office	4,831,943		
(2) State General Fund-Office of Minority Business	171,046		
(3) State General Fund-Small Business Office of Advocacy ..	102,374		
(4) State General Fund- Alabama Film Commission ...	250,551		
(5) Departmental Receipts		100,000	
Total Alabama Development Office	5,355,914	100,000	5,455,914

In addition to the above appropriation to the Alabama Development Office, there is hereby conditionally appropriated from the State General Fund \$350,000 for the Walker County Economic and Industrial Development Authority to be used for developing infrastructures related to the Corridor X transportation system to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

**39. DIETETICS/NUTRITION
PRACTICE, ALABAMA
STATE BOARD OF EXAM-
INERS FOR:**

(a) Professional and Occupa- tional Licensing and Regula- tion Program	60,000
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SOURCE OF FUNDS:

(1) State Board of Dietetics/ Nutrition Fund	60,000
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Total Alabama State Board of Examiners for Dietetics/ Nutrition Practice	60,000	60,000
40. DISTRICT ATTORNEYS:		
(a) Court Operations Program .		15,308,902
The proposed spending plan included in the above total is as follows:		
Salaries of District Attorneys	3,390,692	
For the use of the elected Assis- tant District Attorney of the Bessemer Division of the 10th Judicial Circuit	141,759	
Salaries and expenses of Supernumerary District Attorneys ..	1,315,025	
For use in the District Attor- ney's Office of the following Judicial Circuits:		
1st Judicial Circuit.....	136,943	
2nd Judicial Circuit	158,685	
3rd Judicial Circuit	253,848	
4th Judicial Circuit	451,085	
5th Judicial Circuit	418,861	
6th Judicial Circuit	410,798	
7th Judicial Circuit	261,299	
8th Judicial Circuit	179,990	
9th Judicial Circuit	198,056	
10th Judicial Circuit ...	607,417	
11th Judicial Circuit ...	129,650	
12th Judicial Circuit ...	338,378	
13th Judicial Circuit ...	503,789	
14th Judicial Circuit ...	174,298	
15th Judicial Circuit ...	524,997	
16th Judicial Circuit ...	254,676	
17th Judicial Circuit ...	165,010	
18th Judicial Circuit ...	364,513	

19th Judicial Circuit ...	212,362
20th Judicial Circuit ...	307,347
21st Judicial Circuit....	201,617
22nd Judicial Circuit ..	227,380
23rd Judicial Circuit ...	451,423
24th Judicial Circuit ...	173,559
25th Judicial Circuit ...	172,770
26th Judicial Circuit ...	289,967
27th Judicial Circuit ...	196,060
28th Judicial Circuit ...	257,615
29th Judicial Circuit ...	311,706
30th Judicial Circuit ...	245,561
31st Judicial Circuit....	144,096
32nd Judicial Circuit ..	219,392
33rd Judicial Circuit ...	108,986
34th Judicial Circuit ...	135,053
35th Judicial Circuit ...	177,825
36th Judicial Circuit ...	127,390
37th Judicial Circuit ...	234,870
38th Judicial Circuit ...	213,603
39th Judicial Circuit ...	161,450
40th Judicial Circuit ...	132,040
Travel Expenses of District Attorneys	60,176
Investigators Subsistence-Section 36-21-2, Code of Alabama 1975.....	166,885

SOURCE OF FUNDS:

(1) State General Fund	15,308,902	
Total District Attorneys.....	<u>15,308,902</u>	<u>15,308,902</u>
41. ECONOMIC AND COMMUNITY AFFAIRS, ALABAMA DEPARTMENT OF:		
(a) Administrative Support Program		7,242,148
(b) Planning Program		53,447,636

Of the above appropriation, at least \$600,000 shall be spent for the Regional Planning Commissions and \$50,000 shall be spent for the Alabama Commission on Aerospace Science and Industry created by SJR 119 in the 1991 Regular Session.

(c) Special Services Program .. 23, 647,205

Of the above appropriation (1) \$80,000 shall be allocated to the Food Assistance Program through the Community Action Agencies of Montgomery and Elmore Counties, (2) \$300,000 shall be paid into the Teachers' Retirement System on behalf of Community Action Agency personnel, and (3) at least \$500,000 shall be distributed to community action administering agencies based on their populations below the poverty level, provided however, that not more than 10% of each agency's allocation shall be expended for administration.

(d) Skills Enhancement and Employment Opportunities Program..... 59,381,450

(e) Energy Management Program..... 4,341,700

(f) Police Services Program..... 4,558,424

(g) Law Enforcement Planning and Development Program..... 12,660,925

(h) Surplus Property Program 3,468,763

(i) Water Resources Program.. 1,761,700

SOURCE OF FUNDS:

(1) State General Fund 12,516,247

(2) Federal and Local Funds... 147,857,309

(3) Administrative Transfers and Other Departmental Receipts	6,738,657		
(4) Administrative Transfers from Federal-Donated Sur- plus Property Sales	2,704,331		
(5) Administrative Transfers from State-Owned Surplus Property Sales	693,407		
Total Alabama Department of Economic and Community Affairs	<u>12,516,247</u>	<u>157,993,704</u>	<u>170,509,951</u>

In addition to the above appropriation to the Alabama Department of Economic and Community Affairs, there is also hereby appropriated 1) the sum of \$300,000 to the Dallas, Lowndes and Wilcox County Commissions for joint economic development purposes, 2) the sum of \$80,000 for Minority Business Development in Montgomery County, 3) \$750,000 to the Economic Development Revolving Loan Program, pursuant to Act 90-650 and 4) \$750,000 to the Small Business Incubator Program, pursuant to Act No. 93-543, all of which shall be conditioned on the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

42. EDUCATION, DEPARTMENT OF:

(a) Rehabilitation Services Program	4,567,763		
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SOURCE OF FUNDS:

(1) State General Fund-Home- bound	1,870,341		
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(2) State General Fund-Eye Injury Register	41,234		
(3) Federal and Local Funds...		2,656,188	
Total Department of Education	1,911,575	2,656,188	4,567,763

43. ELECTRICAL CONTRACTORS, BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program			96,000
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SOURCE OF FUNDS:

(1) Alabama Board of Electrical Contractors Fund		96,000	
As provided in Section 34-36-17, Code of Alabama 1975.			
Total Board of Electrical Contractors		96,000	96,000

44. ELK RIVER DEVELOPMENT AGENCY:

(a) Water Resource Development Program			3,517
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SOURCE OF FUNDS:

(1) State General Fund	3,517		
Total Elk River Development Agency	3,517		3,517

45. EMERGENCY MANAGEMENT AGENCY:

(a) Readiness and Recovery Program			10,489,880
(b) Transfer to County Emergency Management Agencies			325,500

The above appropriation of \$325,500 is in addition to the regular allocations to county emergency management agencies.

SOURCE OF FUNDS:

(1) State General Fund	1,144,081		
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(2) Federal and Local Funds...	9,671,299		
Total Emergency Management Agency.....	1,144,081	9,671,299	10,815,380

46. ENERGY BOARD, SOUTHERN STATES:

(a) Discovery and Development of Mineral, Energy and Water Resources, Geological Research and Topographic Mapping Program			21,511
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SOURCE OF FUNDS:

(1) State General Fund	21,511		
Total Southern States Energy Board	21,511		21,511

47. ENGINEERS AND LAND SURVEYORS, STATE BOARD OF REGISTRATION FOR PROFESSIONAL:

(a) Professional and Occupational Licensing and Regulation Program			669,429
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SOURCE OF FUNDS:

(1) Professional Engineers Fund.....	669,429		
As provided in Section 34-11-36, Code of Alabama 1975.			
Total State Board of Registration for Professional Engineers and Land Surveyors.....	669,429		669,429

48. ENVIRONMENTAL MANAGEMENT, DEPARTMENT OF:

(a) Environmental Management Program			51,467,252
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Of the above appropriation the sum of \$20,000 shall be used to monitor water quality of Portersville Bay. The Department may not assess charges of any type to

NPDES permit holders to
offset the cost of monitoring.

SOURCE OF FUNDS:

(1) State General Fund- Transfer	4,529,054
(2) State General Fund- Transfer to Water Pollution Control Authority	940,751
(3) State General Fund- Transfer to Hazardous Substance Cleanup Fund	42,761
In accordance with Sections 22-30A-3 through 22-30A-11, Code of Alabama 1975.	
(4) Environmental Manage- ment Fines and Fees	12,961,060
As provided in Section 22- 22A-11 Code of Alabama 1975.	
(5) Federal Funds	14,602,235
(6) Federal Match-Water Pollution Control Authority ..	11,000,000
(7) Transfer from Under- ground and Aboveground Storage Tank Trust Fund	705,000
As provided in Section 22-35- 9, Code of Alabama 1975.	
(8) Underground and Above- ground Storage Tank Trust Fund	4,705,000
As provided in Section 22-35- 5, Code of Alabama 1975.	
(9) Environmental Education Fund	750,000
In accordance with Section 32- 6-156.1, Code of Alabama 1975.	
(10) Hazardous Substance Cleanup Fund	250,000

In accordance with Sections
22-30A-3 through 22-30A-11.
Code of Alabama 1975.

(11) SRF Administrative Fees.. 981,391

In accordance with Section 22-
34-3, Code of Alabama 1975.

Total Department of Environ- mental Management.....	5,512,566	45,954,686	51,467,252
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49. ETHICS COMMISSION, ALABAMA:

(a) Regulation of Public Offi- cials and Employees Pro- gram.....	369,070
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SOURCE OF FUNDS:

(1) State General Fund	369,070	
Total Alabama Ethics Com- mission.....	369,070	369,070

50. FARMERS' MARKET AUTHORITY:

(a) Agricultural Development Services Program	174,474
(b) Capital Outlay Program....	93,845

SOURCE OF FUNDS:

(1) State General Fund	130,039	
(2) State General Fund- Capital Outlay.....	93,845	
(3) Farmers' Market Author- ity Fund.	44,435	
Total Farmers' Market Author- ity	223,884	268,319

51. FINANCE, DEPARTMENT OF:

(a) Fiscal Management Pro- gram.....	5,439,459
(b) Administrative Support Services Program	4,215,000

SOURCE OF FUNDS:

(1) State General Fund	9,435,459		
(2) Miscellaneous Funds		219,000	
Total Department of Finance ..	9,435,459	219,000	9,654,459

52. FINANCE, DEPARTMENT
OF – CAPITOL COMPLEX
MAINTENANCE AND RE-
PAIR:

(a) Administrative Support Services Program			8,051,229
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SOURCE OF FUNDS:

(1) Capitol Complex Revolv- ing Fund	8,051,229		
Total Department of Finance - Capitol Complex Mainte- nance and Repair	8,051,229	8,051,229	

53. FINANCE, DEPARTMENT
OF – DATA CENTER RE-
VOLVING FUND:

(a) Administrative Support Services Program			22,040,203
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SOURCE OF FUNDS:

(1) Data Center Revolving Fund.....	22,040,203		
Total Department of Finance – Data Center Revolving Fund.....	22,040,203	22,040,203	

It is the intent of the Legis-
lature that the Data Systems
Management Division-De-
partment of Finance shall
absorb \$180,000 in increased
computer time usage for the
State Personnel Department
and shall continue to loan five
(5) clerical employees to the
State Personnel Department
resulting from the implemen-
tation of Government Human
Resources System (GHRIS) for

the fiscal year beginning
October 1, 1994.

**54. FINANCE, DEPARTMENT
OF – MAIL AND SUPPLY:**

(a) Administrative Support Services Program	7,274,648
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SOURCE OF FUNDS:

(1) Mail and Supply Revolv- ing Fund	7,274,648	
Total Department of Finance - Mail and Supply	7,274,648	7,274,648

**55. FINANCE, DEPARTMENT
OF – MOTOR POOL:**

(a) Administrative Support Services Program	1,816,031
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SOURCE OF FUNDS:

(1) Motor Pool Revolving Fund	1,816,031	
Total Department of Finance - Motor Pool.	1,816,031	1,816,031

**56. FINANCE, DEPARTMENT
OF – PRINTING AND PUB-
LICATIONS:**

(a) Administrative Support Services Program	6,148,869
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SOURCE OF FUNDS:

(1) Printing and Publications Revolving Fund	6,148,869	
Total Department of Finance - Printing and Publications.....	6,148,869	6,148,869

**57. FINANCE, DEPART-
MENT OF – RISK MAN-
AGEMENT:**

(a) Administrative Support Services Program	2,122,120
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SOURCE OF FUNDS:

(1) State Insurance Fund- Administration	1,245,848
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As provided in Sections 41-15-1, et seq., Code of Alabama 1975.

(2) General Liability Trust Fund-Administration.....	876,272		
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As provided in Sections 36-1-6.1, et seq., Code of Alabama 1975.

Total Department of Finance-Risk Management	2,122,120	2,122,120	
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58. FINANCE, DEPARTMENT OF - TELEPHONE REVOLVING FUND:

(a) Administrative Support Services Program			16,052,788
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	1,494,350		
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(2) Telephone Revolving Fund, Estimated	14,558,438		
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Total Department of Finance - Telephone Revolving Fund....	1,494,350	14,558,438	16,052,788
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59. FOREIGN TRADE RELATIONS COMMISSION:

(a) Special Services Program..			116,264
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SOURCE OF FUNDS:

(1) State General Fund	116,264		
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Total Foreign Trade Relations Commission	116,264		116,264
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60. FORENSIC SCIENCES, DEPARTMENT OF:

(a) Forensic Science Services Program			7,213,348
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SOURCE OF FUNDS:

(1) State General Fund	6,667,552		
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(2) Federal and Local Funds...	545,796		
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Total Department of Forensic Sciences	6,667,552	545,796	7,213,348
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61. FORESTERS, ALABAMA
STATE BOARD OF REGIS-
TRATION FOR:

(a) Professional and Occupa- tional Licensing and Regula- tion Program	45,000
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SOURCE OF FUNDS:

(1) Professional Foresters Fund	45,000	
As provided in Section 34-12- 36, Code of Alabama 1975.		
Total Alabama State Board of Registration for Foresters	45,000	45,000

62. FORESTRY COMMIS-
SION, ALABAMA:

(a) Forest Resources Protection and Development Program	24,537,135
(b) Capital Outlay Program....	519,500

SOURCE OF FUNDS:

(1) State General Fund- Transfer.	12,474,757	
(2) Federal and Local Funds...	4,783,981	
(3) Forestry Commission Fund.	7,797,897	
Total Alabama Forestry Com- mission	12,474,757	25,056,635

Of the above appropriation to the Alabama Forestry Commission, \$2,365,902 shall be used for rural and community fire protection, and \$412,348 shall be used for forestry research, marketing, management and environmental improvement grants and \$25,000 shall be expended for the Pine Beetle Project at the University of North Alabama.

63. FOREVER WILD LAND
TRUST, BOARD OF:

(a) Capital Outlay Program....	2,077,665
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(b) Administration Program ... 577,130

Of the above appropriation to the Administration Program, an amount equal to 15% of capital outlay expenditures shall be transferred to the Alabama Trust Fund Forever Wild Land Trust Stewardship Account and \$100,000 may be expended for the Heritage Program within the Department of Conservation and Natural Resources.

SOURCE OF FUNDS:

(1) Forever Wild Land Trust Fund..... 2,654,795

In accordance with the Constitutional Amendment No. 543 adopted pursuant to Act 91-219.

Total Board of Forever Wild Land Trust.....	2,654,795	2,654,795
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64. FUNERAL SERVICE, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program..... 156,000

SOURCE OF FUNDS:

(1) Alabama Funeral Directors and Embalmers Fund..... 156,000

As provided in Section 34-13-23, Code of Alabama 1975.

Total Alabama Board of Funeral Service	156,000	156,000
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65. GEOLOGICAL SURVEY:

(a) Discovery and Development of Mineral, Energy and Water Resources, Geologic Research and Topographic Mapping Program 3,186,173

SOURCE OF FUNDS:

(1) State General Fund	2,113,066		
(2) Federal and Local Funds...		1,073,107	
Total Geological Survey.....	<u>2,113,066</u>	<u>1,073,107</u>	<u>3,186,173</u>

66. GORGAS MEMORIAL BOARD:

(a) Historical Resources Management Program.....			4,124
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SOURCE OF FUNDS:

(1) State General Fund	4,124		
As provided in Section 41-9-220, Code of Alabama 1975, and an additional amount.			
Total Gorgas Memorial Board...	<u>4,124</u>		<u>4,124</u>

67. GOVERNOR'S CONTINGENCY FUND:

(a) Executive Direction Program.....	-		750,000
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SOURCE OF FUNDS:

(1) State General Fund	<u>750,000</u>		
Total Governor's Contingency Fund.....	<u>750,000</u>		<u>750,000</u>

68. GOVERNOR'S MANSION:

(a) Executive Direction Program.....			430,659
(b) Capital Outlay Program....			60,000

SOURCE OF FUNDS:

(1) State General Fund	<u>490,659</u>		
Total Governor's Mansion.....	<u>490,659</u>		<u>490,659</u>

69. GOVERNOR'S MANSION ADVISORY BOARD:

(a) Historical Resources Management Program.....			7,189
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SOURCE OF FUNDS:

(1) State General Fund	<u>7,189</u>		
Total Governor's Mansion Advisory Board.....	<u>7,189</u>		<u>7,189</u>

70. GOVERNOR'S OFFICE:

(a) Executive Direction Program.....	3,218,375
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SOURCE OF FUNDS:

(1) State General Fund	3,218,375	
Total Governor's Office	3,218,375	3,218,375

71. GOVERNOR'S OFFICE
ON VOLUNTEERISM:

(a) Executive Direction Program.....	77,954
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SOURCE OF FUNDS:

(1) State General Fund	77,954	
Total Governor's Office on Volunteerism	77,954	77,954

72. HEALTH, DEPARTMENT
OF PUBLIC:

(a) Personal Health Services Program.....	123,404,435
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(b) Health Support Services Program.....	171,107,951
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Of the amount appropriated to support local health department services, \$5,000,000 shall be used to provide a minimum staff in each of the 67 counties and the remaining shall be allocated to the counties on the basis of need and a match formula to be determined by the Department.

(c) Administrative Services Program.....	15,372,227
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SOURCE OF FUNDS:

(1) State General Fund	27,990,342	
(2) Cigarette Tax-\$0.01 and \$0.02		1,600,000

As provided in Section 40-25-2 and Section 40-25-23, Code of Alabama 1975.

(3) Vital Statistics Fund	3,775,785
(4) Hospital Licensing Fund ...	425,000
(5) Emergency Medical Services Fund	56,000

As provided in Section 22-18-4, Code of Alabama 1975.

(6) Local Health Departments	110,840,400
(7) Milk Permit Fee	50,000

In accordance with Sections 20-1-140 through 20-1-146, Code of Alabama 1975.

(8) Radiation Safety Fund	1,745,976
(9) Miscellaneous Funds	15,485,772
(10) Federal Funds	35,738,665
(11) WIC Funds	86,192,570
(12) The Alabama Legacy for Environmental Research Trust Fund	500,000

As provided in Section 22-30B-19, Code of Alabama 1975.

(13) Health-Medicaid Fund	25,484,103
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Total Department of Public Health	<u>27,990,342</u>	<u>281,894,271</u>	<u>309,884,613</u>
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Of the above appropriation to the Department of Public Health, at least \$2,000,000 shall be spent on perinatal projects. The Department of Public Health will reimburse to the Alabama Medicaid Agency the state match necessary to cover increased revenues for services as a result of fee increases. The Department of Public Health will be responsible to the Alabama Medicaid Agency for any disallowance of Public Health Department costs as a result of federal or state audit.

73. HEALTH PLANNING AGENCY, STATE:

(a) Health Planning Development and Regulation Program.....	902,199
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SOURCE OF FUNDS:

(1) State General Fund	292,199		
(2) Certificate of Need Fees		500,000	
(3) Departmental Receipts		50,000	
(4) Federal Funds		60,000	
Total State Health Planning Agency	292,199	610,000	902,199

74. HEARING INSTRUMENT DEALERS, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program	54,000
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SOURCE OF FUNDS:

(1) Board of Hearing Instrument Dealers Fund	54,000		
As provided in Section 34-14-33, Code of Alabama 1975.			
Total Alabama Board of Hearing Instrument Dealers		54,000	54,000

75. HEATING AND AIR CONDITIONING CONTRACTORS, BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program	339,717
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SOURCE OF FUNDS:

(1) Heating and Air Conditioning Contractors Fund	339,717		
As provided in Sections 34-31-18 through 34-31-34, Code of Alabama 1975.			
Total Board of Heating and Air Conditioning Contractors		339,717	339,717

**76. HERITAGE TRUST
FUND, ALABAMA:**

(a) Fiscal Management Program.....	20,000
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SOURCE OF FUNDS:

(1) Heritage Trust Income	20,000	
Total Alabama Heritage Trust Fund.....	20,000	20,000

**77. HISTORIC BLAKELEY
AUTHORITY:**

(a) Historical Resources Management Program	350,000
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SOURCE OF FUNDS:

(1) State General Fund	350,000	
Total Historic Blakeley Authority.	350,000	350,000

**78. HISTORIC CHATTA-
HOOCHEE COMMISSION:**

(a) Historical Resources Management Program.....	139,035
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SOURCE OF FUNDS:

(1) State General Fund	139,035	
Total Historic Chattahoochee Commission	139,035	139,035

The funds hereby appropriated are to be expended only for grants, projects, and/or any other legal purposes in the State of Alabama. In addition to the above appropriation to the Historic Chattahoochee Commission there is also hereby appropriated \$50,000 to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

79. HISTORICAL COMMISSION, ALABAMA:

(a) Historical Resources Management Program.....	4,416,371
(b) Capital Outlay Program....	41,989

SOURCE OF FUNDS:

(1) State General Fund-Transfer	2,419,312
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The above appropriation shall be distributed as follows:

Historical Commission,
Alabama.....748,492

The above appropriation to the Historical Commission shall not be released until such time that all funds available to the Historical Commission from the Transco settlement have been expended.

Historical Commission,
Alabama-La Grange.....6,529

Historical Commission,
Alabama-Magnolia
Grove.....31,911

Historical Commission,
Alabama-
Fort Morgan151,998

Historical Commission,
Alabama-Fort Morgan-
Capital Outlay.....41,989

Historical Commission,
Alabama-Joe Wheeler
House-Capital Outlay ..35,000

Historical Commission,
Alabama-Fort
Toulouse150,000

Historical Commission,
Alabama-John T. Morgan
House, Selma.....9,623

Historical Commission,
Alabama-Cahaba.....125,966

The administrative fee charged
by the Alabama Historical
Commission to the Cahaba
Account shall not exceed 3%
of the above amount.

Historical Commission,
Alabama-Gaineswood...62,350

Historical Commission,
Alabama-State
Capitol905,454

Ft. Payne, Bridgeport and
Stevenson Historical Depots/
Museums50,000

Mainstreet Program....100,000

(2) Soldiers Fund..... 181,413

As provided in Section 40-8-3,
Code of Alabama 1975.

(3) Alabama State Historical
Preservation Fund- Depart-
mental Receipts..... 1,257,635

(4) Federal and Local Funds.... 600,000

Total Alabama Historical Commission	<u>2,419,312</u>	<u>2,039,048</u>	<u>4,458,360</u>
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80. HOME BUILDERS LICEN- SURE BOARD:

(a) Professional and occupa-
tional Licensing and Regula-
tion Program 661,820

SOURCE OF FUNDS:

(1) Home Builders Licensure
Board Fund..... 661,820

In accordance with Sections
34-14A-1 through 34-14A-17,
Code of Alabama 1975.

Total Home Builders Licen- sure Board	<u>661,820</u>	<u>661,820</u>
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81. HUMAN RESOURCES, DEPARTMENT OF:

(a) Human Services Program...

455,479,965

It is the intent of the Legislature that allotments be made to the County Departments of Human Resources in the amount of \$165,500 to fund, upon approval of the county department director, supplemental client services not otherwise provided for through existing programs of the Department of Human Resources. Allotments to the county departments based on the counties' populations according to the 1990 census are as follows: county populations greater than 50,000, \$3,500; county populations less than 50,000, \$2,000.

SOURCE OF FUNDS:

(1) State General Fund-Transfer	38,121,354
(2) Federal and Local Funds...	307,760,487
(3) ABC Profits	700,000
(4) Whiskey Tax.	23,558,298
(5) Beer Tax	9,100,000
(6) Pension Residue	18,000,000
(7) Sales Tax	1,322,000
(8) Franchise Tax	17,200,000
(9) Child Support Collections...	6,614,676
(10) Sales Tax for Food Stamps, Estimated	24,334,150
In accordance with Section 40-23-35, Code of Alabama 1975.	
(11) Cigarette Tax	3,900,000
(12) Contractor's Gross Receipts Tax	3,000,000

(13) Foster Care Trust Fund ..	400,000		
(14) Child Support Interest and Fees.....	356,000		
(15) Miscellaneous Receipts....	1,113,000		
Total Department of Human Resources.....	38,121,354	417,358,611	455,479,965

In addition to the above appropriation to the Department of Human Resources, there is also hereby appropriated an amount up to \$7,312,000 to be utilized in increasing the total AFDC benefit payments by up to 16%, as a first priority conditional, to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor. This shall be the first conditional appropriation to be released from the State General Fund and shall be released in full before any other conditional appropriation can be released. In addition to the above appropriation to the Department of Human Resources. there is hereby appropriated the sum of \$1,399,349 to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

82. INDIAN AFFAIRS COMMISSION, ALABAMA:

(a) Social Services Program....	200,000
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The above appropriation is to be expended in accordance with Sections 41-9-708 et seq., Code of Alabama 1975.

SOURCE OF FUNDS:

(1) State General Fund	200,000	
Total Alabama Indian Affairs Commission	200,000	200,000

83. INDUSTRIAL DEVELOPMENT AUTHORITY, STATE:

(a) Industrial Development Program		300,000
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SOURCE OF FUNDS:

(1) SIDA Application Fees Fund	300,000	
Total State Industrial Development Authority	300,000	300,000

84. INDUSTRIAL RELATIONS, DEPARTMENT OF:

(a) Employment Security Program	47,270,051	
(b) Industrial Safety and Accident Prevention Program	5,197,973	

Of the above appropriation, at least \$117,505 shall be expended for the enforcement of child labor laws.

(c) Administrative Services Program	12,247,154	
(d) Workers' Compensation Program	4,051,958	
(e) Capital Outlay Program	590,000	

SOURCE OF FUNDS:

(1) State General Fund	809,804	
(2) Federal and Local Funds...	68,547,332	
Total Department of Industrial Relations	809,804	68,547,332
		69,357,136

85. INSURANCE, DEPARTMENT OF:

(a) Regulatory Services Program		3,944,680
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SOURCE OF FUNDS:

(1) State General Fund	1,994,786		
(2) Fire Marshal's Fund		324,890	

As provided in Sections 34-33-11 and 8-17-211, Code of Alabama 1975.

(3) Examination Revolving Fund.....		1,625,004	
Total Department of Insurance ..	1,994,786	1,949,894	3,944,680

86. INSURANCE BOARD, STATE EMPLOYEES':

(a) Administrative Support Services Program.			1,019,208
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SOURCE OF FUNDS:

(1) State Employees' Insurance Board Expense Fund.....		1,019,208	
Total State Employees' Insurance Board.....		1,019,208	1,019,208

87. INTERIOR DESIGNERS, ALABAMA STATE BOARD OF REGISTRATION FOR:

(a) Professional and Occupational Licensing and Regulation Program			14,900
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SOURCE OF FUNDS:

(1) Interior Designer Fund		14,900	
As provided in Section 34-15A-7, Code of Alabama 1975.			
Total Alabama State Board of Registration for Interior Designers		14,900	14,900

88. LABOR, DEPARTMENT OF:

(a) Regulatory Services Program.....			391,867
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SOURCE OF FUNDS:

(1) State General Fund.	292,763		
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(2) Federal and Local Funds....	99,104	
Total Department of Labor.....	292,763	391,867
89. LANDSCAPE ARCHITECTS, BOARD OF EXAMINERS OF:		
(a) Professional and Occupational Licensing and Regulation Program		39,048
SOURCE OF FUNDS:		
(1) Landscape Architect's Fund.....	39,048	
As provided in Section 34-17-6, Code of Alabama 1975.		
Total Board of Examiners of Landscape Architects.....	39,048	39,048
90. LIEUTENANT GOVERNOR, OFFICE OF THE:		
(a) Legislative Operations and Support Program		400,229
SOURCE OF FUNDS:		
(1) State General Fund	400,229	
Total Office of the Lieutenant Governor	400,229	400,229
91. LIQUEFIED PETROLEUM GAS BOARD:		
(a) Regulatory Services Program.....		544,000
SOURCE OF FUNDS:		
(1) Liquefied Petroleum Gas Board Fund.....	469,000	
(2) Liquefied Petroleum Gas Research and Education Fund.....	75,000	
Total Liquefied Petroleum Gas Board	544,000	544,000
92. LIVESTOCK MARKET BOARD, ALABAMA PUBLIC:		
(a) Agricultural Development Service Program.....		6,000

SOURCE OF FUNDS:

(1) Alabama Public Livestock
Market Fund

6,000

In accordance with Sections 2-
15-115 through 2-15-127,
Code of Alabama 1975.

Total Alabama Public Live-
stock Market Board

6,000

6,000

93. MANUFACTURED
HOUSING COMMISSION,
ALABAMA:

(a) Regulatory Services Pro-
gram.....

1,346,086

SOURCE OF FUNDS:

(1) Alabama Manufactured
Housing Commission Fund ...

1,306,086

As provided in Section 24-6-4,
Code of Alabama 1975.

(2) Transfer from Manu-
factured Homes Title Fee
Receipts Levied in Section
32-8-6, Code of Alabama
1975

40,000

Total Alabama Manufactured
Housing Commission

1,346,086

1,346,086

94. MEDICAID AGENCY,
ALABAMA:

(a) Medical Assistance Through
Medicaid Program

1,873,246,982

The Medicaid Agency will
reimburse the Department of
Public Health for actual
costs (in compliance with
OMB Circular A87 and
Health Care Financing
Administration guidelines)
for services provided. The
above appropriation shall
include a reimbursement of
the maximum amount avail-
able for rural hospitals that

own and operate diploma-issuing schools of nursing that are accredited by the National League of Nursing and the Alabama Board of Nursing. Any rural hospital receiving such reimbursement shall reimburse 20% of said funds to any qualifying Hill-Burton hospital in the same county that provides support for the schools of nursing in the rural hospital.

SOURCE OF FUNDS:

(1) State General Fund	138,934,767		
(2) Transfer from Department of Human Resources		16,951,452	
(3) Transfer from Mental Health		50,828,288	
(4) Transfer from Commission on Aging		4,400,857	
(5) Transfer from Department of Public Health		7,839,272	
(6) Transfer from Department of Youth Services		189,897	
(7) Transfer from Department of Education		3,114,275	
(8) Transfer from Children's Rehabilitation Services		1,811,168	
(9) Public Hospitals Transfer ...		238,700,000	
(10) Departmental Receipts ...		6,500,000	
(11) Federal and Local Funds ...		1,348,507,096	
(12) Alabama Health Care Trust Fund		55,000,000	
(13) Unencumbered Balance Brought Forward		95,820	
(14) Transfer from University of Alabama in Birmingham ...		374,090	
Total Alabama Medicaid Agency	<u>138,934,767</u>	<u>1,734,312,215</u>	<u>1,873,246,982</u>

In addition to the above appropriation, there is also appropriated any local funds or transfers from other state departments as may become available to facilitate the receipt of matching federal funds in order to maximize federal participation in existing programs under Medicaid.

In addition to the above appropriation to the Alabama Medicaid Agency, there is hereby conditionally appropriated \$7,790,667 from the State General Fund to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

**95. MEN'S HALL OF FAME,
ALABAMA:**

(a) Historical Resources Management Program.....	4,124
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SOURCE OF FUNDS:

(1) State General Fund	4,124	
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Total Alabama Men's Hall of Fame	4,124	4,124
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**96. MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF:**

(a) Institutional Treatment and Care-Mental Illness Program.....	114,819,694
(b) Institutional Treatment and Care-Mental Retardation Program	74,621,932
(c) Administrative Services Program.....	13,793,985
(d) Community Services Program.....	135,390,137

(1) Mental Illness
Services.....64,987,266

(2) Substance Abuse
Services.....21,662,422

Of the above appropriations for Mental Illness Services and Substance Abuse Services, \$51,259,161 and \$18,035,244 respectively shall be allocated by the DMH/MR to Regional Community Mental Health Boards established under Section 22-51-2, Code of Alabama 1975. First priority for such allocated funds shall be the development of a comprehensive array of services for seriously mentally ill, seriously emotionally disturbed, and addicted populations. Such services shall be provided by or sanctioned by said community boards according to resource allocation procedures as set forth in the Alabama Administrative Code (Section 580-1-1-.19). Such allocations to community boards shall recognize community needs and DMH/MR obligations with respect to the Wyatt Consent Decree. Federal Block Grant allocation rules, and operational funding of facilities constructed with bond issue proceeds.

(3) Mental Retardation Services48,740,449

SOURCE OF FUNDS:

(1) State General Fund-
Transfer 62,921,420

(2) Special Mental Health
Trust Fund 112,171,972

For Operations and Maintenance of the Department of Mental Health and Mental Retardation and the Mental Health and Mental Retardation Community Programs, including the purchase of drugs for medically indigent mental patients not hospitalized at time of receiving drugs at the Alabama state hospitals.

(3) Transfer from ABC Profits...	1,000,000
(4) Cigarette Tax	3,017,140
(5) Departmental Receipts.....	2,036,995
(6) Indigent Offender Alcohol/ Drug Treatment Fund	190,000
(7) Federal and Local Funds...	157,288,221
Total Department of Mental Health and Mental Retarda- tion	<u>62,921,420 275,704,328 338,625,748</u>

In addition to the above appropriation to the Department of Mental Health and Mental Retardation, there is hereby conditionally appropriated an amount not to exceed \$1,093,203 for capital outlay from the Special Mental Health Trust Fund to be conditioned upon the availability of funds in the Special Mental Health Trust Fund, the recommendation of the Director of Finance and the approval of the Governor.

97. MILITARY DEPARTMENT:

(a) Military Operations Program.....	5,453,482
(b) State Defense Force.....	10,000

SOURCE OF FUNDS:

(1) State General Fund-Operations	1,632,482	
(2) State General Fund-Quarterly Allowances Headquarters	1,500,000	
(3) State General Fund-Active Military Service	15,000	
(4) State General Fund-Transfer to Armory Commission.....	2,300,000	
(5) State General Fund-Dropping Allowance.....	3,000	
(6) State General Fund-State Defense Force	13,000	
Total Military Department.....	<u>5,463,482</u>	<u>5,463,482</u>

In addition to the above appropriation to the Military Department for the Armory Commission there is hereby appropriated \$800,000 for an armory in Northport and \$300,000 for an armory in Union Springs to be conditioned on the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

98. MILITARY DEPARTMENT – ARMORY COMMISSION OF ALABAMA:

(a) Military Operations Program.....	7,787,613
(b) Capital Outlay Program....	57,000

SOURCE OF FUNDS:

(1) Transfer from Military Department	2,300,000
(2) Federal and Local Funds...	5,398,573
(3) Military Department Billeting Revolving Fund, Estimated	69,040

(4) Departmental Receipts..... 77,000

The funds hereinabove appropriated to the Armory Commission shall be payable from the funds in the State Treasury to the credit of the Armory Commission and the appropriation hereinabove made includes the appropriation made for the care, maintenance and construction of facilities; provided, however, that the last federal government service contract reimbursement shall not revert to the State General Fund and any unobligated balance remaining in the Armory Commission Fund at the end of the fiscal year in excess of \$50,000 shall be transferred to the State General Fund.

Total Armory Commission of Alabama.....	7,844,613	7,844,613
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99. MOTOR SPORTS HALL OF FAME:

(a) Historical Resources Management Program.....	154,732
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SOURCE OF FUNDS:

(1) State General Fund	154,732
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Total Motor Sports Hall of Fame	154,732	154,732
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100. MUSIC HALL OF FAME, ALABAMA:

(a) Fine Arts Program.....	220,559
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SOURCE OF FUNDS:

(1) State General Fund	220,559
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Total Alabama Music Hall of Fame	220,559	220,559
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**101. NURSING, ALABAMA
BOARD OF:**

(a) Professional and Occupational Licensing and Regulation Program	2,173,510
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SOURCE OF FUNDS:

(1) Alabama Board of Nursing Trust Fund	2,173,510
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As provided in Sections 34-21-1 through 34-21-43, Code of Alabama 1975.

Total Alabama Board of Nursing.....	2,173,510	2,173,510
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**102. NURSING HOME ADMINISTRATORS, BOARD
OF EXAMINERS OF:**

(a) Professional and Occupational Licensing and Regulation Program	84,000
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SOURCE OF FUNDS:

(1) Board of Examiners of Nursing Home Administrators Fund	84,000
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As provided in Section 34-20-7, Code of Alabama 1975.

Total Board of Examiners of Nursing Home Administrators	84,000	84,000
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**103. OCCUPATIONAL THERAPY, ALABAMA STATE
BOARD OF:**

(a) Professional and Occupational Licensing and Regulation Program	45,000
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SOURCE OF FUNDS:

(1) Board of Occupational Therapy Fund.....	45,000
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As provided in Section 34-39-6, Code of Alabama 1975.

Total Alabama State Board of Occupational Therapy.....	45,000	45,000
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104. OIL AND GAS BOARD:

(a) Management and Regulation of Oil and Gas Exploration and Development Program	2,257,452
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SOURCE OF FUNDS:

(1) State General Fund	2,087,452
(2) Oil and Gas Board Special Fund.....	150,000
(3) Surety Bond Deposits, Estimated	20,000

In accordance with Section 9-17-6, Code of Alabama 1975.

Total Oil and Gas Board	2,087,452	170,000	2,257,452
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105. OLYMPIC COORDINATION BOARD:

(a) Tourism and Travel Promotion Program	1,250,000
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SOURCE OF FUNDS:

(1) State General Fund	1,250,000	
Total Olympic Coordination Board	1,250,000	1,250,000

106. PARDONS AND PAROLES, BOARD OF:

(a) Administration of Pardons and Paroles Program	15,144,713
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SOURCE OF FUNDS:

(1) State General Fund	11,522,117
(2) Probationers Upkeep Fund.....	3,495,796

In accordance with Section 15-22-2, Code of Alabama 1975.

(3) Local Funds.....	<u>126,800</u>		
Total Board of Pardons and Paroles.....	11,522,117	3,622,596	15,144,713

107. PEACE OFFICERS'
ANNUITY AND BENEFIT
FUND, ALABAMA:

(a) Retirement Systems Program		418,157
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SOURCE OF FUNDS:

(1) Peace Officers' Annuity and Benefit Fund	418,157	
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As provided in Section 36-21-66, Code of Alabama 1975.

Total Alabama Peace Officers' Annuity and Benefit Fund.....	418,157	418,157
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108. PERSONNEL DEPARTMENT, STATE:

(a) Administrative Support Services Program		3,891,577
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SOURCE OF FUNDS:

Transfers to the State Personnel Department shall be as follows:

(1) Board of Public Accountancy	369
(2) Department of Aeronautics.	527
(3) Commission on Aging	2,054
(4) Department of Agriculture and Industries	38,553
(5) Agricultural and Conservation Development Commission.....	53
(6) Agricultural Center Board	1,659
(7) Alcoholic Beverage Control Board	88,587
(8) Board of Registration for Architects	158
(9) Archives and History	5,635
(10) State Council on the Arts.	1,843
(11) Attorney General's Office	15,695
(12) Board of Auctioneers	53
(13) State Auditor.....	1,633

(14) State Banking Department	4,793
(15) Building Commission	2,054
(16) Alabama Building Ren- ovation Finance Authority	12,746
(17) Child Abuse and Neglect Prevention Board	421
(18) Chiropractic Examiners ..	105
(19) Choctawhatchee-Pea Rivers Watershed.....	53
(20) Department of Conser- vation and Natural Re- sources	171,643
(21) State Licensing Board for General Contractors	685
(22) Department of Corrections.	354,242
(23) Board of Cosmetology	1,317
(24) Credit Union Admin- istration	790
(25) Alabama Crime Victims Compensation Commission ...	1,422
(26) Criminal Justice Infor- mation Center	5,951
(27) Alabama Development Office.....	4,951
(28) Board of Dietetics and Nutrition.....	53
(29) State Docks	35,919
(30) Department of Economic and Community Affairs	33,602
(31) Department of Education	155,738
(32) Electrical Contractors Board	53
(33) Emergency Management Agency	5,530
(34) Employees' Insurance Board	1,475
(35) Board of Registration for Professional Engineers and Land Surveyors	632

(36) Department of Environmental Management.....	46,821
(37) Ethics Commission	843
(38) Examiners of Public Accounts	24,016
(39) Farmers' Market Authority	211
(40) Finance Department.....	55,512
(41) Foreign Trade Relations Commission	105
(42) Department of Forensic Sciences	13,746
(43) Forestry Commission.....	54,564
(44) Funeral Services Board...	158
(45) Governor's Office.....	3,739
(46) Department of Public Health.....	507,504
(47) State Health Planning Agency	1,738
(48) Board of Heating and Air Conditioning Contractors	474
(49) Alabama Historical Commission.....	8,953
(50) Home Builders Licensure Board	53
(51) Department of Human Resources.....	480,117
(52) Alabama Indian Affairs Commission	158
(53) Department of Industrial Relations.....	189,129
(54) Insurance Department	7,268
(55) Judicial Inquiry Commission.....	158
(56) Department of Labor	737
(57) Legislative Reference Service	211
(58) Liquefied Petroleum Gas Board	895

(59) Manufactured Housing Commission	1,527
(60) Alabama Medicaid Agency.	57,513
(61) Department of Mental Health and Mental Retardation	524,410
(62) Military Department	26,544
(63) Board of Nursing	2,791
(64) Board of Examiners of Nursing Home Administrators.	53
(65) Board of Occupational Therapy	53
(66) Oil and Gas Board	11,745
(67) Pardons and Paroles	39,290
(68) Peace Officers' Annuity and Benefit Fund	369
(69) Peace Officers' Standards and Training Commission	421
(70) Physical Fitness Commission	527
(71) Board of Physical Therapy.	158
(72) Plumbers and Gas Fitters Examiners Board	1,527
(73) Public Library Service	5,530
(74) Department of Public Safety	129,351
(75) Public Service Commission	14,800
(76) Alabama Educational Television Commission	8,111
(77) Real Estate Appraisers Board	579
(78) Real Estate Commission .	2,001
(79) Retirement Systems	18,592
(80) Department of Revenue...	142,940
(81) Secretary of State	4,055
(82) Securities Commission	1,949
(83) Board of Social Work Examiners	158

(84) Soil and Water Conservation Committee.....	263	
(85) Surface Mining Commission.....	3,634	
(86) Bureau of Tourism and Travel.....	7,795	
(87) Department of Transportation	477,905	
(88) State Treasurer.....	4,793	
(89) Department of Veterans' Affairs	6,636	
(90) Board of Veterinary Medical Examiners.	158	
(91) Voter Registration	158	
(92) Department of Youth Services.....	46,031	
(93) Miscellaneous Receipts....	1,106	
Total State Personnel Department	3,891,577	3,891,577
109. PHYSICAL THERAPY, BOARD OF:		
(a) Professional and Occupational Licensing and Regulation Program		150,411
SOURCE OF FUNDS:		
(1) Physical Therapist Fund ...	150,411	
As provided in Section 34-24-195, Code of Alabama 1975.		
Total Board of Physical Therapy	150,411	150,411
110. PLUMBERS AND GAS FITTERS EXAMINING BOARD, ALABAMA:		
(a) Professional and Occupational Licensing and Regulation Program		1,000,000
SOURCE OF FUNDS:		
(1) Board of Plumbers and Gas Fitters Examiners Fund.	1,000,000	

As provided in Section 34-37-5, Code of Alabama 1975.			
Total Alabama Plumbers and Gas Fitters Examining Board.		1,000,000	1,000,000
111. POLYGRAPH EXAMINERS, BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program			15,000
SOURCE OF FUNDS:			
(1) Board of Polygraph Examiners Fund		15,000	
As provided in Section 34-25-5, Code of Alabama 1975.			
Total Board of Polygraph Examiners		15,000	15,000
112. PROSECUTION SERVICES, OFFICE OF:			
(a) Prosecution, Training, Education and Management Program.....			1,338,728
SOURCE OF FUNDS:			
(1) State General Fund	216,401		
(2) Office of Prosecution Services Fund		1,122,327	
Total Office of Prosecution Services.....	216,401	1,122,327	1,338,728
113. PSYCHOLOGY, ALABAMA BOARD OF EXAMINERS IN:			
(a) Professional and Occupational Licensing and Regulation Program			114,874
SOURCE OF FUNDS:			
(1) Board of Examiners in Psychology Fund		114,874	
As provided in Section 34-26-43, Code of Alabama 1975.			
Total Alabama Board of Examiners in Psychology		114,874	114,874

114. PUBLIC SAFETY, DEPARTMENT OF:

(a) Police Services Program....	28,824,980
(b) Public Safety Support Services Program	11,457,084
(c) Administrative Services Program	18,641,458
(d) Capital Outlay	150,000

SOURCE OF FUNDS:

(1) State General Fund	44,315,588	
(2) Transfer from ABC Profits .		2,000,000
(3) Transfer from Public Road and Bridge Fund-Act 91-797 .		3,500,000

Notwithstanding the provisions of Act 91-797, the above transfer from the Public Road and Bridge Fund may be expended for the enforcement of state traffic and motor vehicle laws.

(4) Federal and Local Funds...	3,588,702
(5) Automated Fingerprint Identification System Fund...	827,232

In accordance with Sections 12-19-180 and 32-2-61, Code of Alabama 1975.

(6) Public Safety Law Enforcement Fund	4,000,000
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In accordance with Section 32-6-5, Code of Alabama 1975.

(7) Public Safety Drug Offenders Reinstatement Fund-Act 93-352	75,000
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(8) Commercial Driver's License Fee	767,000
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In accordance with Section 32-5-313, Code of Alabama 1975.

Total Department of Public Safety.....	<u>44,315,588</u>	<u>14,757,934</u>	<u>59,073,522</u>
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115. PUBLIC SERVICE COMMISSION:

(a) Regulatory Services Program.....			5,868,366
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(b) Administrative Services Program.....			5,752,206
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The above appropriation includes a transfer to the State General Fund of \$1,500,000 in four equal amounts at the end of each quarter of the fiscal year.

SOURCE OF FUNDS:

(1) Public Service Commission Fund.....		10,888,492	
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The above appropriation to the Alabama Public Service Commission shall be payable only from inspection and supervision fees paid by utilities, radio companies and transportation companies and such parts or percentages of fees and taxes paid by motor carrier or motor transportation companies as are now or may be set aside by law to be used by the Commission. Any surplus remaining in the Alabama Public Service Commission Fund at the end of the fiscal year in excess of \$600,000 shall be transferred to the State General Fund.

(2) Gas Pipeline Safety Fund..		486,080	
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(3) Departmental Receipts.....		6,000	
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(4) Federal and Local Funds...		240,000	
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Total Public Service Commission.....		<u>11,620,572</u>	<u>11,620,572</u>
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116. REAL ESTATE APPRAISERS BOARD, ALABAMA:

(a) Professional and Occupational Licensing and Regulation Program	437,527
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SOURCE OF FUNDS:

(1) Real Estate Appraisers Board Fund.....	437,527
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In accordance with Sections 34-27A-1 through 34-27A-29, Code of Alabama 1975.

Total Alabama Real Estate Appraisers Board	437,527	437,527
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117. REAL ESTATE COMMISSION, ALABAMA:

(a) Professional and Occupational Licensing and Regulation Program	2,653,668
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SOURCE OF FUNDS:

(1) Alabama Real Estate Commission Fund	2,653,668
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As provided in Section 34-27-4, Code of Alabama 1975, and the total expenditures shall in no manner exceed the amounts hereby appropriated.

Total Alabama Real Estate Commission	2,653,668	2,653,668
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118. REVENUE DEPARTMENT OF:

(a) State Revenue Administration Program	76,442,596
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The above appropriation shall include a transfer to the Examiners of Public Accounts of \$200,000 and \$2,000,000 to the State General Fund.

SOURCE OF FUNDS:

(1) State General Fund-Transfer	225,060
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As provided in Section 40-7-70, Code of Alabama 1975, to maintain a program for the equalization of ad valorem tax assessments.

(2) State General Fund-Board of Equalization	90,049
(3) Transfer from the gross proceeds of Cigarette Tax Collections	1,445,769
As provided in Section 40-25-27, Code of Alabama 1975.	
(4) Transfer from the gross proceeds of Financial Institution Excise Tax Collections....	374,726
(5) Transfer from the proceeds of the Forest Severance Tax Collections.....	137,959
(6) Transfer from the gross proceeds of Gasoline Tax Collections	6,560,416
(7) Transfer from the Income Tax Collections.....	22,464,883
(8) Transfer from the gross proceeds of Motor Fuel Tax Collections	1,367,341
(9) Transfer from the gross proceeds of Motor Vehicle License Collections.....	2,964,681
(10) Transfer from the Pension Fund as part of the cost of collections of the 1-Mill Ad Valorem Tax.....	907,194
(11) Transfer from the Public School Fund as part of the cost of collections of the 3-Mill Ad Valorem Tax.....	2,234,943
(12) Transfer from the gross proceeds of Sales Tax Collections.....	19,641,882

(13) Transfer from the gross proceeds of the Tobacco Tax Collections	59,150
(14) Transfer from the gross proceeds of Use Tax Collections.....	2,149,523
(15) Transfer from the gross proceeds of the Utility Tax Collections	4,772,518
(16) Transfer from the gross proceeds of Motor Vehicle License Collections for the purchase only of Motor Vehicle License Tags.....	2,365,083
(17) Inspection fees for restored vehicles.....	1,250,000
As provided in Section 32-8-87, Code of Alabama 1975.	
(18) Transfer from Abandoned Property Trust Fund...	100,000
As provided in Section 35-12-39, Code of Alabama 1975.	
(19) Transfer from the gross proceeds of the Pharmaceutical Services Privilege Tax Collections.....	35,324
(20) Transfer from the gross proceeds of Nursing Facility Privilege Tax Collections	246,095
(21) Transfer from Underground/Aboveground Storage Tank Fees.....	150,000
In accordance with Sections 22-35-1 through 22-35-13, Code of Alabama 1975.	
(22) Local Funds.....	6,900,000

The amounts hereinabove appropriated for the cost of maintenance and operations of the Department of Revenue are in lieu of any other statutory provisions for the payment

of the cost of operating said Department or collections of the taxes as authorized by law. Provided, however, in addition to the amount hereinabove appropriated, there is hereby appropriated to the Department of Revenue all sums allowed the Department of Revenue by local Acts of the Legislature as a charge for the collection of taxes or licenses.

Total Department of Revenue...	315,109	76,127,487	76,442,596
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Of the above appropriation to the Department of Revenue, \$200,000 (or the amount required) shall be expended to update the micro-simulated tax model developed by Peat Marwick Policy Economics Group.

119. SECRETARY OF STATE:

(a) Administrative Support Services Program	1,226,466
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SOURCE OF FUNDS:

(1) State General Fund	784,882		
(2) UCC and Farm Indexing Fund.....		146,584	
(3) Corporations Fund.....		295,000	
Total Secretary of State	784,882	441,584	1,226,466

120. SECURITIES COMMISSION:

(a) Regulatory Services Program.....	3,654,309
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The above appropriation includes a transfer to the State General Fund of \$1,500,000 to be made in four equal amounts at the beginning of each quarter of the fiscal year.

SOURCE OF FUNDS:

(1) Sale of Checks License Fund.....	17,000	
(2) Securities Commission Fund.....	2,063,309	
(3) Securities Commission Fund-Transfer to State General Fund	1,500,000	
(4) Industrial Revenue Bond Notification Fund.....	74,000	
Total Securities Commission ...	3,654,309	3,654,309

121. SENIOR CITIZENS HALL OF FAME, ALABAMA:

(a) Historical Resources Management Program.....	18,705	
To be expended in accordance with Sections 41-9-740 et seq., Code of Alabama 1975.		

SOURCE OF FUNDS:

(1) State General Fund	18,705	
Total Alabama Senior Citizens Hall of Fame	18,705	18,705

122. SOCIAL WORK EXAMINERS, ALABAMA STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program	110,831	
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SOURCE OF FUNDS:

(1) Alabama State Board of Social Work Examiners Fund..	110,831	
As provided in Section 34-30-6, Code of Alabama 1975.		
Total Alabama State Board of Social Work Examiners	110,831	110,831

123. SOIL AND WATER CONSERVATION COMMITTEE, STATE:

(a) Water Resource Development Program	1,430,805	
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Of the above appropriation to the Water Resource Development Program, \$46,500 shall be expended for watershed management and \$46,500 shall be allocated to the Sand Mountain-Lake Guntersville Watershed Conservancy District.

(b) Professional and Occupational Licensing and Regulation Program	5,000
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SOURCE OF FUNDS:

(1) State General Fund	1,265,805		
(2) Soil Classifiers Fund		5,000	
As provided in Section 34-32-19, Code of Alabama 1975.			
(3) Departmental Receipts		165,000	
Total State Soil and Water Conservation Committee	1,265,805	170,000	1,435,805

124. SOUTHERN GROWTH POLICIES BOARD:

(a) Special Services Program ..	23,869
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SOURCE OF FUNDS:

(1) State General Fund	23,869	
Total Southern Growth Policies Board	23,869	23,869

125. SPEECH PATHOLOGY AND AUDIOLOGY, ALABAMA BOARD OF EXAMINERS FOR:

(a) Professional and Occupational Licensing and Regulation Program	78,490
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SOURCE OF FUNDS:

(1) Alabama Board of Examiners for Speech Pathology and Audiology Fund	78,490
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As provided in Section 34-28A-44. Code of Alabama 1975.

Total Alabama Board of Examiners for Speech Pathology and Audiology			
		78,490	78,490
126. SPORTS HALL OF FAME, ALABAMA:			
(a) Historical Resources Man- agement Program.....			164,594
SOURCE OF FUNDS:			
(1) State General Fund	164,594		
Total Alabama Sports Hall of Fame	164,594		164,594
127. SURFACE MINING COMMISSION, ALABAMA:			
(a) Industrial Safety and Acci- dent Prevention Program.....			5,113,536
SOURCE OF FUNDS:			
(1) State General Fund- Transfer.....	309,261		
(2) Surface Mining Com- mission-Fees.....		914,638	
(3) Federal and Local Funds...		1,289,637	
(4) Bond Forfeiture/Reclama- tion Projects, Estimated		2,600,000	
As provided in Section 9-16- 103, Code of Alabama 1975.			
Total Alabama Surface Min- ing Commission.....	309,261	4,804,275	5,113,536
128. TANNEHILL FURNACE AND FOUNDRY COMMIS- SION:			
(a) Historical Resources Man- agement Program.....			454,185
SOURCE OF FUNDS:			
(1) State General Fund	454,185		
Total Tannehill Furnace and Foundry Commission.....	454,185		454,185
In addition to the above appro- priation for the Tannehill			

Furnace and Foundry Commission, there is hereby appropriated \$200,000 for museum expansion at Tannehill Historical State Park from the State General Fund to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

129. TENNESSEE-TOMBIG-BEE WATERWAY DEVELOPMENT AUTHORITY:

(a) Water Resource Development Program	83,294
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SOURCE OF FUNDS:

(1) State General Fund	83,294	
<hr/>		
Total Tennessee-Tombigbee Waterway Development Authority.	83,294	83,294
	<hr/>	<hr/>

130. TENNESSEE VALLEY EXHIBIT COMMISSION OF ALABAMA:

(a) Promotional Development Program	185,807
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To be expended in accordance with Sections 41-9-780 et seq., Code of Alabama 1975.

SOURCE OF FUNDS:

(1) State General Fund	135,269	
(2) Admissions and Concessions	50,538	
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Total Tennessee Valley Exhibit Commission of Alabama	135,269	185,807
	<hr/>	<hr/>

131. TOURISM AND TRAVEL, BUREAU OF:

(a) Tourism and Travel Promotion Program	6,179,817
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Of the above appropriation, \$25,000 shall be transferred to the Emerald Triangle Commission; \$50,000 shall be transferred to the Cahaba Trace Commission; \$24,200 shall be transferred to the Tallapoosa Highland Lakes Association; \$24,200 shall be transferred to the Mountain Lakes Tourist Association; \$24,200 shall be transferred to the Childersburg Heritage Foundation; \$10,000 shall be transferred to the City of Greenville; and \$5,000 shall be transferred to the MLK Business and Civic Organization.

SOURCE OF FUNDS:

(1) State General Fund	1,204,086	
(2) Lodgings Tax (\$0.01)		4,975,731

Receipts collected under the provisions of Sections 40-26-1, et seq., Code of Alabama 1975.

Total Bureau of Tourism and Travel.....	<u>1,204,086</u>	<u>4,975,731</u>	<u>6,179,817</u>
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In addition to the above appropriation, there is also hereby appropriated \$1,000,000 to the Bureau of Tourism and Travel for the Alabama National Guard Historical Society; \$50,000 to the Jesse Owens Memorial Park and Museum; and \$200,000 to the Museum of Civil Rights March all of which are to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

132. TRANSPORTATION,
DEPARTMENT OF:

(a) Central Administration Program.....	22,099,583
(b) Division and District Supervision Program	29,257,953
(c) Operations and Support Services Program	11,491,521
(d) Maintenance Program.....	184,787,515
(e) Non-Programmatic Programs	22,910,665

Proposed spending plan for the above (e) includes the following:

Debt Service	18,811,245
Equipment-Other than Automotive	4,099,420

(f) Construction-Federal Aid Program	449,643,129
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Proposed spending plan for the above (f) includes the following:

Federal Aid Matching.....	90,570,913
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Non-Participating Work on Federal Projects	1,000,000
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Federal Aid	358,072,216
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(g) Construction-State Program.....	25,246,000
(h) Operations-Land and Buildings Program.....	3,083,767
(i) Captive County Health Insurance Program	168,480
(j) Transfer to Department of Public Safety, in accordance with Act 91-797	3,500,000
(k) Transfer to Amtrak	1,300,000
(l) Transfer to Capital Outlay.	37,902

(m) Highway Safety Education Program	100,000
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SOURCE OF FUNDS:

(1) State General Fund-Transfer.....	170,000
(2) State General Fund-Amtrak.....	1,300,000
(3) State General Fund-Capital Outlay.....	37,902
(4) State General Fund-Highway Safety Education Program.....	100,000
(5) Public Road and Bridge Fund.....	390,446,397
(6) Public Road and Bridge Fund-Transfer to Department of Public Safety.....	3,500,000
(7) Federal Aid.....	358,072,216

There is hereby appropriated, for payment of the principal of and the interest on all bonds heretofore or hereafter issued for public highways and bridge purposes, or either, by the State of Alabama, Alabama Highway Authority, Alabama Federal Aid Highway Finance Authority, or Alabama Industrial Access Road and Bridge Corporation, a total of \$18,811,245 or so much thereof as may be necessary for payment of said principal and interest at their respective maturities, of the revenues pledged for such payment. The Director of Transportation with the consent of the Governor and the Director of Finance shall have the authority to transfer any appropriation or any portion thereof between and among

Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), of this Section whenever such transfer shall be necessary to assure maximum utilization of Federal Matching Funds which shall become available. In the event that there shall not be sufficient funds available for payment of all appropriations hereinabove made, the following provisions shall be applicable. In the event of such insufficiency in respect of the said revenues accruing to the Department of Transportation: (1) the appropriations made for Debt Service in Subsection (e) hereof shall be paid in full, (2) the appropriations from the revenues accruing to the Department of Transportation that are herein made for the purposes referred to in Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), except for Debt Service, hereof shall be allocated among the purposes referred to in said Subsections in such order and with such priorities as the Director of the Department of Transportation shall from time to time direct. The funds appropriated in Subsection (f) hereof, for the matching Federal Funds, shall not revert at the end of the fiscal year for which such appropriations are made, but shall remain available for the purpose for which such appropriation was made. In addition to all appropriations hereinabove made there is hereby appropriated to the Department of Transportation all Federal

Funds accruing thereto to be expended only for the purpose for which such funds are made available.

Total Department of Transportation	<u>1,607,902</u>	<u>752,018,613</u>	<u>753,626,515</u>
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The General Fund Capital Outlay amount of \$37,902 shall be used to match federal funds to renovate the Little White House of the Confederacy.

133. TREASURER, STATE:

(a) Fiscal Management Program		4,742,309
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SOURCE OF FUNDS:

(1) State General Fund	1,640,733		
(2) Prepaid Affordable College Tuition Fund		3,101,576	
Total State Treasurer	<u>1,640,733</u>	<u>3,101,576</u>	<u>4,742,309</u>

134. UNIFORM STATE LAWS, ALABAMA COMMISSION ON:

(a) Special Services Program, Estimated		30,000
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SOURCE OF FUNDS:

(1) State General Fund	30,000		
As provided in Section 41-9-374, Code of Alabama 1975.			
Total Alabama Commission on Uniform State Laws	<u>30,000</u>		<u>30,000</u>

135. VETERANS' AFFAIRS, DEPARTMENT OF:

(a) Administration of Veterans' Affairs Program		8,297,394
(b) Capital Outlay Program		3,375,210

SOURCE OF FUNDS:

(1) State General Fund	3,079,238
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(2) Veterans Home Trust Fund-Transfer	8,593,366		
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Total Department of Veterans' Affairs	3,079,238	8,593,366	11,672,604
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136. VETERINARY MEDICAL EXAMINERS, ALABAMA STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program			180,000
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SOURCE OF FUNDS:

(1) State Board of Veterinary Medical Examiners Fund	180,000		
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As provided in Section 34-29-70, Code of Alabama 1975.

Total Alabama State Board of Veterinary Medical Examiners	180,000		180,000
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137. VOTER REGISTRATION IDENTIFICATION PROGRAM:

(a) Special Services Program..			353,441
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SOURCE OF FUNDS:

(1) State General Fund	353,441		
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Total Voter Registration Identification Program	353,441		353,441
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138. WOMEN'S COMMISSION, ALABAMA:

(a) Employment and Social Opportunities Program.....			12,000
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SOURCE OF FUNDS:

(1) State General Fund	12,000		
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Total Alabama Women's Commission.....	12,000		12,000
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139. WOMEN'S HALL OF FAME, ALABAMA:

(a) Historical Resources Management Program.....			6,000
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SOURCE OF FUNDS:

(1) State General Fund	6,000	
Total Alabama Women's Hall of Fame	6,000	6,000

140. YOUTH SERVICES, DEPARTMENT OF:

(a) Youth Services Program....		6,282,882
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The above appropriation shall be expended in accordance with the provisions of Sections 44-1-1 through 44-1-56, Code of Alabama 1975.

SOURCE OF FUNDS:

(1) State General Fund-Community Subsidy	3,229,108	
(2) State General Fund-Juvenile Probation Officers Subsidy	3,053,774	
Total Department of Youth Services.....	6,282,882	6,282,882

The above appropriation for Community Subsidy shall include at least \$103,425 for those nonsecure programs funded in fiscal year 1993-94.

2D. OTHER FUNCTIONS OF GOVERNMENT, FUNDED FROM THE STATE GENERAL FUND:**1. ARREST OF ABSCONDING FELONS:**

(a) Criminal Investigation Program, Estimated.....		60,450
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SOURCE OF FUNDS:

(1) State General Fund	60,450	
As provided in Section 15-9-1 and 15-9-3, Code of Alabama 1975.		
Total Arrest of Absconding Felons	60,450	60,450

2. AUTOMATIC APPEAL EXPENSE:

(a) Legal Advice and Legal Services Program, Estimated..	82
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SOURCE OF FUNDS:

(1) State General Fund	82
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As provided in Section 12-22-
150, and 12-22-241, Code of
Alabama 1975.

Total Automatic Appeal Expense	82	82
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3. BUSKEY PENNY TRUST FUND:

(a) Special Services Program, Estimated	30,000
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SOURCE OF FUNDS:

(1) State General Fund-Trans- fer	30,000
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In accordance with Sections
41-15A-10 through 41-15A-
12, Code of Alabama 1975.

Total Buskey Penny Trust Fund.....	30,000	30,000
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4. CONSUMER UTILITY RATE HEARING:

(a) Executive Direction Pro- gram.....	186,000
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SOURCE OF FUNDS:

(1) State General Fund	186,000
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As provided in Section 37-1-
18, Code of Alabama 1975.

Total Consumer Utility Rate Hearing.....	186,000	186,000
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5. COURT ASSESSED COSTS NOT PROVIDED FOR:

(a) Special Services Program, Estimated	1,800,000
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As provided in Sections 22-52-14, 30-4-96, 26-17-17, 22-11A-1 through 22-11A-41, 12-15-71 and 12-21-131, Code of Alabama 1975.

(b) Legal Advice and Legal Services Program

300,000

It is the intent of the Legislature that the appropriation in this subsection be expended for Court Costs to include costs of depositions, witness fees and expenses, filing and docket fees, court reporters, court judgments, attorneys fees, out-of-court settlements and other expenses ordered by the court or normally identified as costs of court, when any of the above is approved by the Attorney General.

(c) Automatic Appeal Cases Expense Program.....

40,307

The above appropriation shall be used to reimburse reasonable expenses incurred by attorneys representing defendants under sentence of death in state collateral proceedings, such as those under Rule 32 of the Rules of Criminal Procedure. Provided, in no case may any amount be paid unless the court determines by written order in advance that the cost is both necessary and reasonable; in no single case may the total amount paid for all costs exceed \$5,000; and in no event may any amount be paid out of this appropriation as fees to any attorney for services, or to compensate

any attorney for time either
as an attorney in the proceed-
ing or as a witness.

SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,800,000	
(2) State General Fund	300,000	
(3) State General Fund- Automatic Appeal Cases	40,307	
Total Court Assessed Costs Not Provided For	<u>2,140,307</u>	<u>2,140,307</u>

6. COURT COSTS-ACT NO. 558, 1957:

(a) Court Operations Pro- gram, Estimated		372
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SOURCE OF FUNDS:

(1) State General Fund	372	
Pursuant to Act No. 558, 1957, Page 777.		
Total Court Costs-Act No. 558, 1957	<u>372</u>	<u>372</u>

7. DISTRIBUTION OF PUB- LIC DOCUMENTS:

(a) Administrative Support Services Program, Estimated .		65,976
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SOURCE OF FUNDS:

(1) State General Fund	65,976	
As provided in Sections 36-14- 1, 36-14-11. 17-22A-11 and 41-21-8, Code of Alabama 1975.		
Total Distribution of Public Documents	<u>65,976</u>	<u>65,976</u>

8. STATE DOCKS TRANS- FER:

3,500,000

SOURCE OF FUNDS:

(1) State General Fund	3,500,000
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The above appropriation to the State Docks shall be conditioned upon the availability of funds and shall remain in the State General Fund until a demonstrated need is determined and recommended by the Director of Finance and approved by the Governor.

Total State Docks Transfer.....	<u>3,500,000</u>	<u>3,500,000</u>
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9. ELECTION EXPENSES:

(a) Special Services Program, Estimated	2,505,472
(b) Training of Election Officials.....	72,694

For payment of expenses pursuant to the court order entered by the U.S. District Court, Middle District of Alabama in Civil Action No. 84-T-595-N.

SOURCE OF FUNDS:

(1) State General Fund	2,505,472
As provided in Section 17-21-6, Code of Alabama 1975.	
(2) State General Fund	<u>72,694</u>
Total Election Expenses	<u>2,578,166</u>
	<u>2,578,166</u>

10. EMERGENCY FUND, DEPARTMENTAL:

(a) Special Services Program..	3,500,000
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SOURCE OF FUNDS:

(1) State General Fund	3,500,000
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This is the appropriation contemplated in Section 41-4-94, Code of Alabama 1975, and shall be the only amount appropriated and the total amount expended under the provisions of said section. This

appropriation shall be expended solely for the purpose of addressing a financial emergency within a state department, board, commission, bureau, office or agency. None of the above appropriation shall be transferred to the Governor's Contingency Fund. At least 10 days prior to the release of any of this appropriation to any state department, board, commission, bureau, office or agency, the Director of Finance shall notify the Chairman of the Senate Finance and Taxation Committee and the Chairman of the House Committee on Ways and Means of such pending transfer.

Total Departmental Emergency Fund	<u>3,500,000</u>	<u>3,500,000</u>
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11. FAIR TRIAL TAX TRANSFER:

(a) Court Operations Program, Estimated		3,500,000
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	<u>3,500,000</u>	
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Total Fair Trial Tax Transfer..	<u>3,500,000</u>	<u>3,500,000</u>
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12. FEEDING OF PRISONERS:

(a) Institutional Services-Corrections Program, Estimated		4,200,000
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SOURCE OF FUNDS:

(1) State General Fund	4,200,000	
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For expenses of feeding prisoners in county jails in accordance with Section 14-6-42, Code of Alabama 1975.

Total Feeding of Prisoners.....	<u>4,200,000</u>	<u>4,200,000</u>
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13. FINANCE-CMIA, DEPARTMENT OF:

(a) Fiscal Management Program, Estimated		300,000
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SOURCE OF FUNDS:

(1) State General Fund	300,000	
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To implement the provisions of the Cash Management Improvement Act of 1990, Public Law 101-453 and the governing Federal regulations in 31 CFR Part 205. Any payments owed by the Department of Transportation to the federal government shall not be paid from this appropriation.

Total Department of Finance-CMIA	<u>300,000</u>	<u>300,000</u>
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14. FINANCE, DEPARTMENT OF - EMPLOYEES' SUGGESTION AWARDS PROGRAM:

(a) Fiscal Management Program.....		8,247
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SOURCE OF FUNDS:

(1) State General Fund	8,247	
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In accordance with Section 36-1-7, Code of Alabama 1975.

Total Department of Finance-Employees' Suggestion Awards Program.....	<u>8,247</u>	<u>8,247</u>
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15. FINANCE-FEMA, DEPARTMENT OF:

(a) Readiness and Recovery Program, Estimated.....		93,000
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Payments of the State's share of administrative costs and matching grants furnished by the Federal Emergency Management Agency.

SOURCE OF FUNDS:

(1) State General Fund	93,000	
Total Department of Finance-FEMA	93,000	93,000

The above appropriation to the Department of Finance-FEMA from the State General Fund is conditioned upon the declaration of a natural disaster area by the President of the United States and conditioned further upon the requirement by the Federal Management Agency of the State of Alabama to pay a state match for FEMA grants.

16. FOREST FIRE FUND, EMERGENCY:

(a) Forest Resources Protection and Development Program	180,000
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	180,000
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The appropriation to the Emergency Forest Fire Fund shall be conditional as provided by Section 9-3-10.1, Code of Alabama 1975 and shall remain in the State General Fund until a demonstrated need is determined and recommended by the Director of Finance and approved by the Governor.

Total Emergency Forest Fire Fund	180,000	180,000
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17. GOVERNOR'S CONFERENCE, NATIONAL:

(a) Executive Direction Program, Estimated	173,602
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SOURCE OF FUNDS:

(1) State General Fund	173,602	
Total National Governor's Conference	173,602	173,602

18. GOVERNOR'S PROCLAMATION EXPENSES:

(a) Executive Direction Program, Estimated		175,000
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SOURCE OF FUNDS:

(1) State General Fund	175,000	
As provided in Section 17-14-21, Code of Alabama 1975.		
Total Governor's Proclamation Expenses	175,000	175,000

19. LAW ENFORCEMENT FUND:

(a) Criminal Investigation Program, Estimated		37,200
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SOURCE OF FUNDS:

(1) State General Fund	37,200	
As provided in Sections 28-4-311 and 28-4-312, Code of Alabama 1975.		
Total Law Enforcement Fund ...	37,200	37,200

20. LAW ENFORCEMENT LEGAL DEFENSE:

(a) Legal Advice and Legal Services Program, Estimated		2,325
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SOURCE OF FUNDS:

(1) State General Fund	2,325	
To carry out provisions of Section 36-21-1, Code of Alabama 1975.		
Total Law Enforcement Legal Defense	2,325	2,325

21. MILITARY - EMERGENCY ACTIVE DUTY PAY:

(a) Military Operations Program, Estimated		175,000
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SOURCE OF FUNDS:

(1) State General Fund	175,000	
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As provided in Section 31-2-133, Code of Alabama 1975.

Total Military - Emergency Active Duty Pay	175,000	175,000
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22. PRINTING OF CODE SUPPLEMENTS - LEGISLATIVE REFERENCE SERVICE:

(a) Legislative Operations and Support Program, Estimated..		364,880
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SOURCE OF FUNDS:

(1) State General Fund	364,880	
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As provided in Section 29-7-6, Code of Alabama 1975.

Total Printing of Code Supplements - Legislative Reference Service	364,880	364,880
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23. PRINTING CODES AND SUPPLEMENTS - SECRETARY OF STATE:

(a) Administrative Support Services Program, Estimated .		146,317
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SOURCE OF FUNDS:

(1) State General Fund	146,317	
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As provided in Sections 41-21-1 through 41-21-8 and 41-4-154, Code of Alabama 1975.

Total Printing Codes and Supplements - Secretary of State.....	146,317	146,317
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24. PRINTING OF LEGISLATIVE ACTS AND JOURNALS:

(a) Administrative Support Services Program, Estimated .	443,385
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SOURCE OF FUNDS:

(1) State General Fund	443,385
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As provided in Sections 41-4-130 through 41-4-161, Code of Alabama 1975.

Total Printing of Legislative Acts and Journals	443,385	443,385
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25. REGISTRATION OF VOTERS:

(a) Special Services Program, Estimated	1,793,220
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SOURCE OF FUNDS:

(1) State General Fund	1,793,220
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In accordance with Sections 17-4-126 and 17-4-153, Code of Alabama 1975.

Total Registration of Voters	1,793,220	1,793,220
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26. REMOVAL OF PRISONERS:

(a) Administrative Services and Logistical Support Program, Estimated	400,000
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SOURCE OF FUNDS:

(1) State General Fund	400,000
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As provided in Sections 15-10-70 through 15-10-73, 15-9-62, 15-9-65 and 15-9-81, Code of Alabama 1975.

Total Removal of Prisoners.....	400,000	400,000
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27. STATE GENERAL FUND, ESTIMATED:

55,000,000

SOURCE OF FUNDS:

(1) Heritage Trust Income Fund Transfer, Estimated	55,000,000
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All income other than income realized on sale of Trust Fund assets and not otherwise appropriated herein.

Total State General Fund, Estimated	55,000,000	55,000,000
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2E. DEBT SERVICE FUNDED FROM THE STATE GENERAL FUND:

1. General Obligation Capital Improvement Bonds, Series B, Estimated		1,442,500
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,442,500	
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Total General Obligation Capital Improvement Bonds, Series B, Estimated	1,442,500	1,442,500
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2. General Obligation Waterway Refunding Bonds, Series 1992, Estimated		2,914,477
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	2,914,477	
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Total General Obligation Waterway Refunding Bonds, Series 1992, Estimated	2,914,477	2,914,477
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3. General Obligation Docks Facilities Bonds, Series C, Estimated		1,536,750
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,536,750	
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Total General Obligation Docks Facilities Bonds, Series C, Estimated	1,536,750	1,536,750
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4. Music Hall of Fame Bonds, Estimated		349,245
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	349,245	
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Pursuant to Constitutional
Amendment No. 489 as pro-
vided in Act 88-549, 1988
Regular Session.

Total Music Hall of Fame Bonds, Estimated	349,245	349,245
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5. Corrections Institutions Bonds, Estimated		1,399,000
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,399,000	
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Pursuant to Constitutional
Amendment No. 374 as pro-
vided for in Act No. 134,
1978 Second Special Session.

Total Corrections Institutions Bonds, Estimated	1,399,000	1,399,000
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6. General Obligation Capital Bonds, 1990 Series, Esti- mated		1,924,605
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,924,605	
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Pursuant to Constitutional
Amendment No. 510 as pro-
vided for in Act 89-799, 1989
Regular Session.

Total General Obligation Capital Bonds, 1990 Series, Estimated	1,924,605	1,924,605
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7. General Obligation Refund- ing Bonds, 1992, Series A and B, and Refunding Bonds, Series 1993 Estimated		53,562,852
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	53,562,852	
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Total General Obligation Refunding Bonds, 1992, Series A and B, and Refunding Bonds, Series 1993, Estimated	53,562,852	53,562,852
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SECTION 3. That, except as may be herein otherwise provided, amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes. That the amounts herein appropriated are the maximum amounts to be expended for the purposes herein designated and in no event shall the maximum expenditure provided for any items of expense exceed the amount allocated herein except as may be provided for under Sections 5 and 6 of this bill, as provided in the Budget Management Act of 1976, Sections 41-19-1 et seq., Code of Alabama 1975, and those appropriations herein made, except appropriations to the Alabama Alcoholic Beverage Control Board for the purchase of alcoholic beverages, are and shall be subject to the terms, conditions, provisions and limitations of Sections 41-4-80 et seq., Code of Alabama 1975, and the Budget Management Act of 1976, Sections 41-19-1 et seq., Code of Alabama 1975.

SECTION 4. That any surplus remaining in any appropriation herein made from the State General Fund to any office, department, bureau, board, commission or agency may be transferred, on order of the Governor, to any other appropriation herein made from the State General Fund when such appropriation to any office, department, bureau, board, commission or agency is insufficient to pay salaries in that office, department, bureau, board, commission or agency.

SECTION 5. In addition to appropriations herein made, all gifts, grants, contributions or entitlements, in excess of the amount carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which the grant or contribution was or shall be made. Further, all state, county, municipal and educational entities are authorized to disburse such sums as deemed necessary by mutual agreement between said entities and the State of Alabama, Department of Examiners of Public Accounts to partially defray the cost of auditing services performed by said agency. All such sums are hereby appropriated and reappropriated if necessary to the Department of Examiners of Public Accounts for audit services, to be expended through the fund established by Section 41-5-24, Code of Alabama 1975.

SECTION 6. All interest earned from funds paid into Account No. 396 (formerly Account No. 305735) by Act 87-761, Act 88-947, Act 89-79, Act 90-556 and Act 91-572 are hereby appropriated to the Governor's Contingency Fund to be spent at the discretion of the Governor. Any other interest earned by the state from Revenue Sharing Investments under the State and Local Fiscal

Assistance Act of 1972, as amended, Public Law 92-512, 92nd Congress, together with any accruals of reversions thereon are hereby appropriated to the State General Fund.

SECTION 7. All encumbered balances of a previous fiscal year appropriation, other than the exclusions authorized in Section 41-4-93, Code of Alabama 1975, shall lapse no later than September 30 of the fiscal year immediately following the fiscal year for which the appropriation was made and shall revert to the credit of the State General Fund or earmarked fund from which the appropriation or appropriations were made.

SECTION 8. The appropriations made herein to the departments, boards, offices, commissions and agencies include the amounts necessary and said departments, boards, offices, commissions and agencies are hereby directed to make the transfer of funds to the State Personnel Department in said amounts enumerated in this Act. All agencies enumerated in this Act and receiving services from other governmental agencies enumerated in this Act shall make full payment in a timely manner (as determined by the Department of Finance) for such services.

SECTION 9. (a) Funds appropriated from the State General Fund or earmarked state funds in this act to any state department, division, board, bureau, commission, agency, institution, or office (with the exception of local boards of education, the Department of Transportation, postsecondary institutions of education and the legislative branch of government) shall not be expended for the purchase or lease of automotive vehicles. Notwithstanding the foregoing, the Department of Public Safety may purchase automotive vehicles to be used for direct law enforcement purposes only. The Department of Public Safety may not transfer automotive vehicles from law enforcement personnel nor vehicles designated for law enforcement purposes to other personnel in that department nor shall vehicles be transferred to be used for any other purpose in that department nor transferred to any other state agency. A state agency may request to purchase or lease automotive vehicles for emergency purposes. The request shall be made in writing to the Director of Finance, the Chairman of the House Committee on Ways and Means, and the Chairman of the Senate Committee on Finance and Taxation. The request shall explain the nature of the automotive purchase or lease and the emergency need for the vehicle. The request shall be approved unanimously by the Director of Finance, the Chairman of the House Committee on Ways and Means, and the Chairman of the Senate Committee on Finance and Taxation prior to the purchase or lease of any automotive vehicle.

(b) No funds appropriated in this Act shall be expended for the purpose of purchasing optional equipment on state motor vehicles

that consist of stereo equipment, power seats, leather upholstery, premium wheel covers, deluxe exterior trim, or sun roofs.

SECTION 10. If any section, paragraph, sentence, clause, provision or portion of this Act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

SECTION 11. All laws and parts of laws, general, special, private or local in conflict with or inconsistent with the provisions of this Act be and the same are hereby expressly repealed.

SECTION 12. Each agency of the State funded through the provisions of this Act shall provide an equal opportunity for employment and business opportunities for all citizens of this state without regard to sex or race.

SECTION 13. This Act shall become effective October 1, 1994.

Approved April 14, 1994

Time: 4:05 P.M.

Act No. 94-487

S. 299 – Senators Campbell, Barron, Denton, Dial, Hill, Little, Waggoner, Bolling, Langford, Bedsole, Hale, Owens, Ellis, Dixon, Ghee, and Parsons

AN ACT

To provide for a means to safeguard the public against injury and loss of life or the interruption of public services caused by damage to various underground facilities by communicating and coordinating adequate prior notification of excavation or demolition activities that might damage or interrupt services provided by certain underground facilities; to prohibit certain activities without first having ascertained the location of any potentially affected underground facilities; to prescribe procedures for notification of an intent to undertake certain activities; to prescribe certain activities to be included in an underground damage prevention program; to prescribe procedures for response to both emergency and routine notification and for reporting damage resulting from certain activities; to prescribe civil penalties for violations and exceptions to such penalties; to provide for the liberal construction and severability of any part of this act and to provide that this act shall become effective on January 1, 1995.

Be It Enacted by the Legislature of Alabama:

Section 1. Purpose and Intent.

The purpose of this act is to safeguard against injury and loss of life due to excavation or demolition and to protect underground

facilities from costly damage and the interruption of utility or other services to the general public.

Section 2. Definitions.

As used in this act unless the context clearly implies a different meaning:

(a) "Approximate Location" of underground facilities means information about an operator's underground facilities which is provided to a person by an operator and must be accurate to within 18 inches measured horizontally from the outside edge of each side of such operator's facility, or a strip of land eighteen inches either side of the operator's field mark or the marked width of the facility plus eighteen inches on each side of the marked width of the facility;

(b) "Blasting" means the use of an explosive device for the excavation of earth, rock or other material or the demolition of a structure;

(c) "Damage" includes, but is not limited to, the substantial weakening of structural or lateral support of an underground facility, penetration or destruction of any underground facility's protective coating, housing or other protective device, and the severance (partial or complete) of any underground facility, but does not apply to any operator's abandoned underground facility;

(d) "Demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment or explosives;

(e) "Excavate" or "Excavation" means any operation for the purpose of the movement or removal of earth, rock or other material by mechanized equipment or explosive device and includes, but is not limited to, augering, backfilling, blasting, boring, digging, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, sub-soiling, trenching and tunneling;

(f) "Excavator" means any person who engages in excavation;

(g) "Implied Easement" means any unwritten easement or right-of-way on private property required to provide utility or other services by means of underground facilities on property of the owner requesting such service;

(h) "Mark" or "Marking" means the use of stakes, flags, paint, buoys or clearly identifiable materials placed on the surface of the ground or water to show the approximate location of underground facilities;

(i) "Mechanized Equipment" means equipment powered or energized by any motor, engine, hydraulic or pneumatic device and

is used for excavation or demolition work including, but not limited to, tractors, trenchers, bulldozers, power shovels, augers, backhoes, scrapers, pile drivers, drills, cable and pipe plows or other equipment used for plowing-in or pulling-in cable or pipe;

(j) "One-Call Notification System" means a non-profit corporation, a public corporation or a governmental entity which will provide a statewide notification service, for the purpose of receiving statewide telephonic toll-free notification of any planned excavation or demolition activities by excavators or other persons as set forth in Section 4 of this act and distributing the required excavation or demolition information to its affected member operators as set forth in Section 5 of this act;

(k) "Operator" means any person, governmental agency or political subdivision, or their agents, who owns or operates a public or private underground facility which furnishes services, information or materials, or transports or transmits electric energy, light, water, steam, oil, gases, gas, mixture of gases, petroleum, petroleum products, hazardous or flammable liquids, toxic or corrosive fluids and gases or items of like nature and telecommunications, cable television, water, drainage, sewage and traffic control systems or other systems of like nature;

(l) "Person" means an individual, joint venture, partnership, association, authority, cooperative, firm, corporation, governmental entity, or any subdivision or instrumentality of that entity and their employees, agents or legal representatives; however, the term "person" does not include and no provision of this act shall apply to the state highway department or their officials, employees, agents or representatives while in the performance of their respective duties. Provided further, that the term does not include, and no provision of this act shall apply to, any county or its officials, employees, agents, or representatives while in the performance of their duties. Provided further, that such term does not include and no provision of this act shall apply to any excavating done by a railroad when said excavating is done entirely on land which the railroad owns or on which the railroad operates or, in the event of emergency, on adjacent land.

(m) "Underground Facility" means any cable, pipeline, duct, wire, conduit or other similar installation, installed underground or underwater, by which an operator transports or delivers materials, information, or services;

(n) "Working Day" means a 24 hour period commencing from the time of receipt of the notification, excluding Saturday, Sunday and the following nine holidays: New Year's Day, Memorial Day (observed), Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the

Friday following Thanksgiving Day, Christmas Eve, and Christmas Day. When any of these holidays occur on a Saturday, it will be observed on the preceding Friday and when any of these holidays occur on a Sunday, it will be observed on the following Monday.

Section 3. Prohibition.

No person shall excavate in a street, highway, public easement, private easement or implied easement of an operator, or on property of an operator, or conduct blasting operations, or perform demolition activities in the near proximity of an operator's underground facility without first having ascertained, in the manner prescribed in Sections 4 and 6 of this act, the location of all underground facilities in the area of the proposed excavation, blasting, or demolition; however, violation of this section shall not subject any person to the civil penalties of Section 10 provided the easement or underground facility is located on property owned by such person and such person did not have knowledge of the existence or presence of such easement or underground facility.

Section 4. Notice of Intent to Excavate or Demolish.

(a) A permit issued pursuant to law authorizing excavation or demolition operations shall not be deemed to relieve a person from the responsibility for complying with the provisions of this act. Any public agency issuing such permit shall notify the person receiving the permit of the notification requirements of this act; however, failure to provide such notification shall not make the state highway department subject to the penalties provided for in Section 10 of this act.

(b) Before commencing any excavation or demolition operation prohibited by Section 3 of this act, each person responsible for such excavation or demolition shall give written, telephonic or electronic notice of such intent to excavate or demolish to the underground facility operator or a "One-Call Notification System" acting on behalf of the operator at least two but not more than ten working days prior to the start of the proposed excavation and at least two working days but not more than thirty calendar days prior to the start of demolition or any blasting operations for either excavation or demolition. Written notice shall be by registered mail and shall be valid only upon receipt of the written information required by this act by the operator or by a "One-Call Notification System" acting on behalf of the operator.

(c) The notice required by subsection (b) of this section must contain the name, address, and telephone number of the person responsible for the excavation or the demolition and the person giving notice, the proposed starting date and time, the type of excavation or demolition operation to be conducted, the location of the proposed excavation or demolition with sufficient details to

enable the operator to locate same with reasonable certainty, and whether or not explosives are to be used.

(d) Notification to an operator or to a "One-Call Notification System" acting on behalf of the operator of an intent to excavate shall be valid for a period of fourteen calendar days from the proposed starting date given and the notice to demolish shall be valid for a period of thirty calendar days from the starting date given. Each person responsible for excavation or demolition shall renew with the underground facility operator or a "One-Call Notification System" acting on behalf of the operator each notice of intent to excavate or demolish at least two working days prior to the expiration date of the notice if the excavation or demolition has not been completed.

(e) When engaged in an extensive and contiguous construction, demolition or excavation activity, working agreements may be established to accomplish the intent and purpose of this act between operators, public agencies and contractors after initial compliance with the notification provisions of this act.

(f) Compliance with the notice requirements of this section is not required of any governmental entity doing maintenance work within dedicated state, county or city road rights-of-way; or of persons plowing less than 12 inches in depth for agricultural purposes; or of municipal or public corporations operating water and sewer boards, which produce, treat and sell water and provide fire protection in accordance with Insurance Service Office fire protection standards while doing work on any easements, rights-of-way or other property owned by said board or to which said board had access; or of any rural water system.

(g) Compliance with the notice requirements of this section is not required by persons or operators excavating on their own property or easement when no other persons or operators have underground facilities on the property or easement.

Section 5. Underground Damage Prevention Program.

(a) Operators who have underground facilities within this state shall either provide an in-house program which meets the operational requirements of receiving those excavation or demolition notifications as set forth in sections 5(d), 5(e), 5(f) and 5(g) of this act or shall participate in a "One-Call Notification System"; provided, however, that any operator who has less than ten thousand customers or subscribers and who provides an in-house program which meets all of the operational requirements of receiving those excavation or demolition notifications as set forth in this act shall not be required to provide the services of the in-house program on working days except during the hours that the operator's offices are open to the public and may, but shall not be required to, voice record the notification calls received;

(b) Between the date on which this act becomes law and its effective date (January 1, 1995), or any time thereafter, any non-profit corporation, public corporation, or governmental entity desiring to become a "One-Call Notification System" shall apply to the Alabama Public Service Commission for a certificate of public convenience and necessity, verifying under oath that said applicant meets the requirements of this act. After a public hearing on said application, if the Alabama Public Service Commission deems that said applicant meets the requirements of this act, and if it is found that said applicant is fit, willing and able to properly perform the services proposed and that the proposed service is or will be required by the present or future public convenience or necessity, then in such event the Alabama Public Service Commission shall issue a certificate of public convenience and necessity authorizing said applicant to commence its operation as a "One-Call Notification System." The Alabama Public Service Commission shall further have the authority, and is required, to revoke said certificate if said non-profit corporation, public corporation, or governmental entity ceases to meet the requirements as set forth in this act.

(c) Operators of underground pipeline facilities or a "One-Call Notification System" acting on their behalf must notify the public and known excavators of the availability and use of in-house or "One-Call Notification Systems" as required in applicable federal regulations.

(d) The person giving notice of intent to excavate or demolish shall be furnished an individual reference file number for each notification and upon request shall be furnished the names of the operators to whom the notification will be transmitted.

(e) An adequate record of notifications shall be maintained by the underground facility operator or a "One-Call Notification System" in order to document timely compliance with this act. These records shall be retained for a period of not less than three years and shall be made available at a reasonable cost upon proper and adequate advance request.

(f) The services of any "One-Call Notification System" acting on behalf of operators should be provided on working days at least between the hours of 8 A.M. and 5 P.M.

(g) A "One-Call Notification System" should voice record the notification telephone calls and after hours calls should at least reach a voice recording which explains emergency procedures.

(h) All operators who are members of a "One-Call Notification System" shall provide the "One-Call Notification System" with the following information:

(1) A list of cities and towns in which they have underground facilities in each county;

(2) The Townships, Ranges and Sections in each county in which they have underground facilities or for other reasons wish to receive notification of proposed excavations, demolition or blasting;

(3) Total trench or right-of-way miles of underground facilities within the boundaries of the state of Alabama updated at least once a year;

(4) The name, address, and telephone number of a person to receive emergency notifications.

(i) A "One-Call Notification System" shall promptly transmit the information received from the excavator, as set forth in Section 4 of this act, to its appropriate member operators.

(j) All operators who are members of a "One-Call Notification System" and have changes, additions, or new installations of buried facilities within the boundaries of the state of Alabama shall notify the "One-Call Notification System" of changes in the information required in Sections 5(h)(1), 5(h)(2) and 5(h)(4) of this act, within 30 days of the completion of such change, addition or new installation.

Section 6. Response to Notice of Intent to Excavate or Demolish.

(a) (1) Each operator served with notice in accordance with Section 4, with underground facilities in the area, shall locate or otherwise provide the approximate location of the operator's underground facilities by marking in a manner as prescribed herein prior to the proposed start of excavation, demolition or blasting. If any underground facilities become damaged due to an operator furnishing inaccurate information as to the approximate location of the facilities, through no fault of the operator, then the civil liabilities imposed by this act do not apply.

(2) In lieu of such marking, the operator may request to be present at the site upon commencement of the excavation, demolition or blasting.

(3) When an excavator encounters an unmarked underground facility on an excavation site where notice of intent to excavate has been made in accordance with the provisions of Section 4 of this act, and attempts a follow-up or second notice relative to revising the original notice to the "One-Call Notification System" or the operator, all operators thus notified must attempt to contact the excavator within four hours and provide a positive response relative to any of their known underground facilities, active or abandoned, at the site of the excavation.

(b) When marking the approximate location of underground facilities, the operator shall follow the color code designation described herein, unless otherwise provided for by specific administrative rule or regulation promulgated pursuant to this act, namely:

UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
Electric Power Distribution and Transmission	Safety Red
Municipal Electric	Safety Red
Gas Distribution and Transmission	High Visibility Safety Yellow
Oil Distribution and Transmission	High Visibility Safety Yellow
Hazardous Materials, Product Lines and Steam Lines	High Visibility Safety Yellow
Telephone and Telegraph	Safety Alert Orange
Police and Fire Communications	Safety Alert Orange
Cable Television	Safety Alert Orange
Water and Irrigation	Safety Precaution Blue
Slurry Lines	Safety Precaution Blue
Sewer and Drain Lines	Safety Green

(c) Marks or markings shall indicate the name, initials or logo of the owner and operator of the underground facility and the width of the underground facility if it is greater than two inches.

(d) The group identifying colors designated in Section 6(b) shall not be used by any operator or person to mark the boundary or location of any excavation or demolition area. If the excavator elects to mark the proposed excavation or demolition site, the boundary or location shall be identified using white as the identifying color or with natural color wood stakes. White flags or white stakes may have a thin stripe, one inch or less of the above group identifying color, to indicate the excavator's proposed type of facility, if applicable.

Section 7. Emergency Excavation or Demolition.

(a) Compliance with the notice requirements of Section 4 of this act, is not required of persons responsible for emergency excavation or demolition to eliminate an imminent danger to life, health, property or public services; provided, however, that such person gives, before commencing or as soon as practicable thereafter, notice of the emergency excavation or demolition to each operator having underground facilities located in the area or to the "One-Call Notification

System” acting on behalf of the operator. However, every person who shall engage in such emergency excavation or demolition shall take all necessary and reasonable precautions to avoid or minimize damage to existing underground facilities.

(b) An imminent danger to life, health, property or public services exists whenever there is a substantial likelihood that injury, loss of life, health, or public services, or substantial property loss could result before the notification and response procedures required in Sections 4 and 6 of this act can be fully complied with.

Section 8. Precaution to Avoid Damage.

In addition to the notification requirements of Section 4 of this act, each person responsible for an excavation or demolition operation designated in Section 3 of this act shall:

(a) Conduct excavation or demolition activities so as to avoid damage to or minimize interference with existing underground facilities in and near the excavation or demolition area;

(b) Employ detection equipment or non-invasive methods to determine the precise location of an operator’s underground facilities when excavation is to be done within the area marked as the approximate location of the operator’s underground facilities and maintain a clearance between any underground facility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such facility; and

(c) Provide such support for underground facilities in and near the excavation or demolition area, including during any backfilling operations, as may be reasonably necessary for the protection of such facilities.

Section 9. Excavation or Demolition Damage.

(a) Each person responsible for any excavation or demolition operation that results in any damage to an underground facility shall, immediately upon discovery of such damage, notify the operator of such facility of the location of the damage and shall allow the operator reasonable time to accomplish any necessary repairs before completing the excavation or demolition in the immediate area of the damage to such facility.

(b) Each person responsible for any excavation or demolition operation that results in damage to an underground facility permitting the escape of any flammable, toxic or corrosive gas or liquid shall, immediately upon discovery of such damage, notify the operator and take other action as may be reasonably necessary, to protect persons and property and to minimize the hazards, until arrival of the operator’s personnel, police or fire department.

Section 10. Civil Penalties.

(a) Any person who violates any provision of this act shall be subject to a civil penalty not to exceed \$10,000 for each such violation.

(b) An action under this section shall be instigated by any person making a complaint in writing, verified by oath, that said person has reason to believe that a violation under this act has occurred.

(c) Prosecution of violations of this act shall be by district attorney or the attorney general and shall be brought in the circuit court for the county in which the violation, or some part thereof, arose or in the circuit court for the county in which the defendant resides or maintains his principal place of business within the state.

(d) The amount of such penalties shall be dependant upon the degree of non-compliance, the amount of injury or damage caused, the degree of threat to public safety, the degree of public inconvenience caused as a result of the violation, and the number of past violations. Mitigation of the penalty may be shown by "good faith" efforts of the violator to have complied with the provisions of this act.

(e) All penalties recovered in such actions shall be paid into the general fund of the State of Alabama.

(f) Any person who violates any provision of this act shall not be subject to payment of the assessed penalty in Section 10(a) if they have been assessed a civil penalty for this same violation under the provisions of the Federal Natural Gas Pipeline Safety Act of 1968 or the Federal Hazardous Liquid Pipeline Safety Act of 1979 or any amendment to these acts.

(g) This act does not affect any civil remedies for personal injury or property damage or criminal sanctions except as otherwise specifically provided for in this act.

Section 11. Liberal Construction.

The provisions of this act shall be liberally construed as to effectuate the purposes of this act and the operation of a "One-Call Notification System."

Section 12. Severability.

The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 13. Repealer.

All laws or parts of laws which conflict with this act are hereby repealed.

Section 14. Effective Date.

This act shall become effective on January 1, 1995.

Approved April 18, 1994

Time: 10:31 A.M.

Act No. 94-488

S. 187 – Senator Horn

AN ACT

To provide further an eight percent salary increase for certain state employees, to provide for the proper funding therefor, and to prohibit any merit or special raise for the fiscal year ending September 30, 1995.

Be It Enacted by the Legislature of Alabama:

Section 1. Beginning with the first payday on or after October 1, 1994, all state employees who are listed in the classified and unclassified service of the state as defined in Section 36-26-10, Code of Alabama 1975, and all other state employees and hourly employees of the state, except those set out in Section 2 herein, and all legislative personnel, officers and employees, including but not limited to Legislative Reference Service personnel, whether subject to the state merit system or not, and all circuit clerks and registers and state judges, except as provided in Section 2 herein, and all employees of the county health departments who are employed subject to the state merit system and whose compensation is paid out of a budget provided and agreed upon by the state, county or other contributing agency under the direction of the state board of health shall receive an eight percent salary increase. Any cost-of-living increase granted under the provisions of this Act shall not apply to any local supplement provided to any judges or any other employee of this state. The provisions of this bill shall not apply to any local employee whose salary is tied to that of any state employee. All such increases shall be in addition to the salary received by such employees. It is the intention of the legislature that the Governor is hereby authorized to transfer such amounts to, from, and between such departments, boards, bureaus, commissions, agencies, offices, and institutions under his direct control for the purpose of paying the salary increase for state employees and officials.

Section 2. The provisions of this act shall not apply to any merit system employee or hourly employee whose service or rates of pay are covered by any labor agreement or contract, nor shall this act apply to state judges whose salaries are payable from the state treasury if such judges' salaries are increased under and by virtue of: (1) The recommendations contained in the Report of the Judicial Compensation Commission to the 1994 Regular Session of the legislature becoming law; or (2) the enactment into law of legislation altering and amending said report; or (3) any other legislation enacted into law during the 1994 Regular Session or Special sessions of the legislature.

Section 3. The director of the state personnel department shall revise the schedule or rates set forth in the pay plan for state employees and shall certify the same to the state comptroller, who shall issue warrants in accordance therewith. With respect to all court officials and employees within the Unified Judicial System who

serve the trial and appellate courts of the state and the Administrative Office of Courts, the Administrative Director of Courts shall revise the schedule of rates set forth in the pay plan for such court officials and employees to reflect the increase provided herein, and shall certify the same to the state comptroller, who shall issue warrants in accordance therewith. With respect to the legislative employees, the secretary of the senate for senate employees, the clerk of the house of representatives for house employees, and the director of the Legislative Reference Service for Legislative Reference Service employees, and the director of the Legislative Fiscal Office for Legislative Fiscal Office employees shall revise the schedule or rates set forth in the pay plan for such legislative employees to reflect the increase provided herein, and shall certify the same to the state comptroller, who shall issue warrants in accordance therewith.

Section 4. Such amounts as may be necessary to pay state officials and employees an increase of eight percent in salaries is hereby appropriated for the fiscal year beginning October 1, 1994, from such funds and in the same proportion as the salaries of the several state officials and employees are paid.

Section 5. Any employee who receives the eight percent salary increase provided for in Section 1 of this act shall be prohibited from receiving a merit raise or special raise during the fiscal year 1994-95.

Section 6. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby specifically repealed.

Section 8. This act shall become effective on September 17, 1994, with the first payment on October 14, 1994, for all state officials and employees covered by this Act who are paid bi-weekly, and effective on October 1, 1994, for all state officials and employees covered by this act whose salaries are set annually and who are paid semi-monthly, and upon approval by the Governor, and upon its otherwise becoming a law.

Approved April 18, 1994

Time: 10:30 A.M.

Act No. 94-489

S.J.R. 105 – Senators Corbett and Campbell

SENATE JOINT RESOLUTION

NAMING THE “CALL BEFORE YOU DIG” BILL THE “ROSEMARY ELEBASH CALL BEFORE YOU DIG ACT OF 1994.”

WHEREAS, it appears that after years of intense lobbying efforts, S. 299 and its House companion, H. 361, the so called "Call Before You Dig" bills, are headed for passage this session; and

WHEREAS, over the years countless members of the utilities industry have tried unsuccessfully to persuade the Legislature of the need for a "Call Before You Dig" bill; and

WHEREAS, long after others gave up in frustration, only Rosemary Elebash remained to champion the cause of "Call Before You Dig"; and

WHEREAS, thanks to Rosemary's perseverance and persuasion, as well as her unequalled abilities to negotiate, dig, and grovel, Alabama now has a model "One Call Notification" Act which is the envy of the other states; and

WHEREAS, it is only appropriate to acknowledge and honor the person most responsible for the resurrection and passage of this ill-fated bill; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That S. 299, or H. 361, whichever is enacted, be named the "Rosemary Elebash Call Before You Dig Act of 1994."

BE IT RESOLVED FURTHER, That a copy of this resolution be sent to Rosemary as a token of our appreciation.

Approved April 18, 1994

Time: 10:32 A.M.

Act No. 94-490

S.J.R. 125 – Senator Mitchem

SENATE JOINT RESOLUTION

NAMING THE NEW BRIDGE AND THE OLD BRIDGE SPANNING THE TENNESSEE RIVER AT GUNTERSVILLE, ALABAMA, "THE VETERANS MEMORIAL BRIDGES."

WHEREAS, the George Houston Bridge crossing the Tennessee River at Guntersville, Alabama, was condemned by the State of Alabama resulting in its closure and removal; and

WHEREAS, the State of Alabama has replaced the George Houston Bridge; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby

name both the new replacement bridge and the northbound bridge "The Veterans Memorial Bridges" in honor of all veterans, and that no other names shall be added now or in the future.

BE IT FURTHER RESOLVED, That no signs, monuments, markers, or any other symbols indicating the name of these bridges shall be installed or erected without the approval and consent of the Mayor and the City Council of the City of Guntersville, with concurrence of the Alabama Department of Transportation.

RESOLVED FURTHER, That upon the opening of the new bridge, a ceremony be held dedicating both bridges in honor of all veterans and recognizing the name "The Veterans Memorial Bridges."

Approved April 18, 1994

Time: 10:33 A.M.

Act No. 94-491

S.J.R. 130 – Senator Corbett

SENATE JOINT RESOLUTION

RECOGNIZING THE 50TH ANNIVERSARY OF THE SMOKEY BEAR CAMPAIGN.

WHEREAS, in the early 1940's, the United States was confronted with circumstances that justified promoting national awareness concerning the conservation of natural resources, especially timber; on December 7, 1941, the Japanese attacked our naval base at Pearl Harbor, Hawaii, marking our entrance into the conflict of World War II; in early 1942, a Japanese submarine surfaced near the coast of southern California and fired shells that exploded close to the Los Padres National Forest; the destruction of timber could potentially hinder military operations; and

WHEREAS, to combat the threat, the United States Department of Agriculture, Forest Service, organized the Cooperative Forest Fire Prevention Campaign to encourage Americans to participate personally in fire prevention; the campaign eventually adopted the use of an animal to achieve greater public appeal; and

WHEREAS, on a hot, dry, spring day in 1950, a little bear cub became separated from its mother during a rapidly spreading fire in the Capitan Mountains of the Lincoln National Forest in New Mexico; fire fighters spotted the lone little bear close to the fire

line and, later, when the smoke had cleared, found him badly burned and clinging to a charred and smoking snag that was once a tree; and

WHEREAS, "Smokey", appropriately named after the poster fire prevention bear, was rescued and soon became the living symbol of his namesake, Smokey Bear; in June of 1950 "Smokey" was released to the Forest Service "to be dedicated to a publicity program of fire prevention and wildlife conservation," and was granted a permanent home at the National Zoo in Washington, D.C.; and

WHEREAS, the name of Smokey Bear is synonymous with fire prevention and the protection and appreciation of our great and limited national resources; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in acknowledgement of this milestone in the history of fire prevention, we recognize the enduring legacy of Smokey Bear and remember the important message he has conveyed for fifty years, "Only You Can Prevent Forest Fires."

BE IT FURTHER RESOLVED, That a copy of this resolution be provided with sincere regard and best wishes to the United States Forest Service for many more years of continued success of the Smokey Bear Campaign.

Approved April 18, 1994

Time: 10:35 A.M.

Act No. 94-492

S.J.R. 134 – Senator Sanders

SENATE JOINT RESOLUTION

COMMENDING THE ROBERT C. HATCH HIGH SCHOOL BOBCATS ON THEIR STATE 3-A HIGH SCHOOL BASKETBALL CHAMPIONSHIP 1993-94 TITLE.

WHEREAS, the Legislature of Alabama most heartily commends the Robert C. Hatch High School Bobcats basketball team on its remarkable 1993-94 season of winning 17 games with only three losses in regular season play, and in clawing their way to win the area and regional tournaments that finally placed them in the "Final-Four" state championship competition which earned the Bobcats the State 3-A High School Basketball Championship, their fourth title since 1978; and

WHEREAS, under the talented leadership of Coach Eugene Mason and his staff, and the exhilarating basketball feats of Dexter King, Nigel Black, William McCreary, and DeWayne Custard who were named to the All-Tournament Team, and the outstanding contributions of every team member including: Detrick Rencher, Theotis Dudley, Otis Hunter, Gregory Smith, Braderick Anderson, Christopher Patterson, Everett Bryant, and Jacob Waddy, the Bobcat fans and student body of Robert C. Hatch High School enjoyed a year of titles and honors and a spectacular season; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend the Robert C. Hatch Bobcats basketball team, the coaches, staff, and the supportive faculty and Principal Walter Collins on the 1993-94 area and regional honors and an outstanding state championship season, and do further direct that copies of this resolution be forwarded to Coach Eugene Mason for appropriate presentation and display.

Approved April 18, 1994

Time: 10:36 A.M.

Act No. 94-493

S.J.R. 138 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING TURNER INSCOE ON HIS ELECTION AS 1995 GOVERNOR OF THE ALABAMA YOUTH LEGISLATURE.

WHEREAS, it is with highest commendation that the Alabama Legislature notes the election of Turner Inscoe as Youth Governor for 1995 during the 46th annual YMCA Alabama Youth Legislature, held March 17-20, 1994, in Montgomery, Alabama; and

WHEREAS, patterned after the Alabama Legislature, Youth Legislature provides some of Alabama's brightest young people the opportunity to experience the legislative process first hand; and

WHEREAS, Turner Inscoe, a 17 year-old junior at Montgomery Academy, who served as Senate Floor Leader for the '94 session, is the son of Jim and Elmore Inscoe, and the brother of Elmore Demott and Allison Inscoe, who served as Alabama's Youth Governor in 1990, the first time siblings have held the office; and

WHEREAS, young Turner, whose campaign theme was "Put Turner on the Top," chose education as the focus of his term, and has plans for a special session, a first for the program, to deal solely with the issue of improving Alabama's Educational System; he was also selected to attend the National Affairs Conference, a national mock government conference to debate national and international issues, which is to be held during the summer in Black Mountain, North Carolina; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and on his election as Youth Governor for the 1995 Alabama Youth Legislature, we hereby most highly commend and congratulate Turner Inscoe, of whom we are justly proud, and for whom a copy of this resolution shall be provided.

Approved April 18, 1994

Time: 10:37 A.M.

Act No. 94-494

S.J.R. 132 – Senators Bedsole, Windom,
and Figures

SENATE JOINT RESOLUTION

COMMENDING CAPTAIN ROGER COOK OF THE UNITED STATES COAST GUARD FOR EXCEPTIONAL COURAGE AND INITIATIVE.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes Captain Roger Cook, a man of great and selfless courage, who was recently awarded the Coast Guard Public Service Commendation for his swift and sure action in responding to the USNS CAPE JACOB tow breakaway south of Dauphin Island, Alabama, on December 13, 1993; and

WHEREAS, on that date, Captain Cook was alerted that, upon exiting the Mobile Ship Canal and encountering severe weather with 25-knot winds and 15 to 18 foot seas, the towline to the USNS CAPE JACOB had parted and the 562 foot break-bulk freighter was drifting at approximately five knots toward numerous production platforms and natural gas pipelines south of Dauphin Island, Alabama; and

WHEREAS, Captain Cook, and apprentice pilot, Captain Marty Stapleton, skillfully maneuvered their Coast Guard vessel through menacing seas and alongside the drifting freighter; boarded the

unfamiliar freighter, quickly calculated that a large Exxon platform, with 23 individuals on board, was directly in its drift path, dropped anchor, hoped for the best, and returned to their own vessel; and

WHEREAS, the soft sand bottom, raging seas, and high drift speed prevented the freighter's anchor from catching for an additional two miles of drifting, the anchor eventually caught and held fast when within one nautical mile of the Exxon platform and within forty feet from a high pressure, 16-inch natural gas pipeline; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his courageous and self-sacrificing actions, which prevented an extraordinary tragedy, we hereby most highly commend Captain Roger Cook, whom we hold in highest personal regard and for whom a copy of this resolution shall be provided.

Approved April 18, 1994

Time: 10:38 A.M.

Act No. 94-495

S.J.R. 131 – Senators Bedsole, Windom,
and Figures

SENATE JOINT RESOLUTION

COMMENDING CAPTAIN MARTY STAPLETON OF THE UNITED STATES COAST GUARD FOR EXCEPTIONAL COURAGE AND INITIATIVE.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes Captain Marty Stapleton, a man of great and selfless courage, who was recently awarded the Coast Guard Public Service Commendation for his swift and sure action in responding to the USNS CAPE JACOB tow breakaway south of Dauphin Island, Alabama, on December 13, 1993; and

WHEREAS, on that date, Captain Stapleton was alerted that, upon exiting the Mobile Ship Canal and encountering severe weather with 25-knot winds and 15 to 18 foot seas, the towline to the USNS CAPE JACOB had parted and the 562 foot break-bulk freighter was drifting at approximately five knots toward numerous production platforms and natural gas pipelines south of Dauphin Island, Alabama; and

WHEREAS, Captain Stapleton, and senior pilot, Captain Roger Cook, skillfully maneuvered their Coast Guard vessel through menacing seas and alongside the drifting freighter;

boarded the unfamiliar freighter, quickly calculated that a large Exxon platform, with 23 individuals on board, was directly in its drift path, dropped anchor, hoped for the best, and returned to their own vessel; and

WHEREAS, the soft sand bottom, raging seas, and high drift speed prevented the freighter's anchor from catching for an additional two miles of drifting, the anchor eventually caught and held fast when within one nautical mile of the Exxon platform and within forty feet from a high pressure, 16-inch natural gas pipeline; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his courageous and self-sacrificing actions, which prevented an extraordinary tragedy, we hereby most highly commend Captain Marty Stapleton, whom we hold in highest personal regard and for whom a copy of this resolution shall be provided.

Approved April 18, 1994

Time: 10:39 A.M.

Act No. 94-496

H.J.R. 407 – Rep. Campbell

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Tuesday, April 12, 1994, they adjourn to meet again on Thursday, April 14, 1994; and when they adjourn on Thursday, April 14, 1994, they adjourn to meet again on Monday, April 25, 1994; and when they adjourn on Monday, April 25, 1994, they adjourn sine die.

Approved April 18, 1994

Time: 10:40 A.M.

Act No. 94-497

H.J.R. 421 – Rep. Kvalheim

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MR. DANIEL BERSON OF MOBILE, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the death of Daniel Berson of Mobile, Alabama, on March 2, 1994; and

WHEREAS, a native of Pensacola, Florida, he was a resident of Mobile for more than 75 years; he was a member of the first graduating class of Murphy High School in 1926 and attended New York University for three years; and

WHEREAS, he was the owner of Raphael's Inc., and a member and past president of Congregation Ahavas Chesed; and

WHEREAS, he was widely known and admired through his involvement in leadership and service with numerous civic, cultural, and educational activities; he was also a very caring person whose concern for his family, friends, and his fellowman was reflected daily through his many endeavors on their behalf; and

WHEREAS, as evidence of his involvement in the community, Mr. Berson had served on the Prichard Chamber of Commerce and was a member of the Prichard Retail Merchants Association, of which he was elected president in 1955; additionally, he was a member of Downtown Unlimited and the Lions Club; and

WHEREAS, Daniel Berson was indeed a kind, loving, and compassionate person whose lamentable death has left an unfathomable void in the hearts of all those whose lives he touched through genuine care and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Daniel Berson of Mobile, and extend our very deepest sympathy to his wife, Claire Berson; daughter, Suzanne Berson Hoffer; son, Mark David Berson; and other family members, for whom a copy of this resolution shall be provided, so that they may know that we sincerely share their great and grievous loss.

Approved April 18, 1994

Time: 10:41 A.M.

Act No. 94-498

H.J.R. 406 – Reprs. Page, Ford

HOUSE JOINT RESOLUTION

CONGRATULATING Q. D. ADAMS ON THE OCCASION OF HIS 75TH BIRTHDAY.

WHEREAS, it is with heartiest congratulations that the Legislature of Alabama notes the 75th birthday of Q. D. Adams on April 3, 1994; and

WHEREAS, Q. D. Adams, a native of Etowah County and a prominent Gadsden businessman, is widely recognized and acclaimed as a leader and a vital force in the area of civil rights; and

WHEREAS, over the years, Mr. Adams has led, supported and encouraged participation and involvement in the political process, and has been dedicated in his commitment toward protecting and preserving the civil rights of all people; and

WHEREAS, he has provided invaluable leadership and support to numerous organizations including NAACP, of which he is a founding member of the local chapter, the Etowah County Voters League, which he serves as president, and SCLC, A.D.C., Chamber of Commerce, Masons, and American Legion; he also is an active member of Goodsell United Methodist Church; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with great pleasure that we commend and congratulate Q. D. Adams, a truly great American, on his 75th birthday, April 3, 1994.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Mr. Adams that he may know of our sincere regard and warm best wishes on this very happy occasion.

Approved April 18, 1994

Time: 10:42 A.M.

Act No. 94-499

H.J.R. 410 – Reps. Willis, Lindsey, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay,

Holley, Holmes, Hooper,
 Johnson, Kennedy, Knight (A),
 Knight (J), Kvalheim, Laird,
 Layson, Letson, Mathis,
 McClain, McDaniel, McDowell,
 McKee, McMillan, Melton,
 Mikell, Millican, Morrow,
 Morton, Newton (C),
 Newton (D), Page, Parker (P),
 Parker (T), Payne, Penry,
 Perdue, Petelos, Poole, Powell,
 Rich, Richardson, Rockhold,
 Rogers (F), Rogers (J),
 Sanderford, Sanderson,
 Smith (C), Smith (R), Spratt,
 Starkey, Thomas, Turner,
 Turnham, Venable, Walker,
 Warren, White, Williams,
 Zoghby

HOUSE JOINT RESOLUTION

EXPRESSING SYMPATHY AND SUPPORT TO STORM VICTIMS IN NORTHEAST ALABAMA.

WHEREAS, with heavy hearts, the Alabama Legislature extends deepest sympathy to those who lost loved ones, neighbors and friends during the deadly tornadoes and raging thunderstorms that struck a number of communities in northeast Alabama on March 27, 1994, leaving death and destruction in their wake; and

WHEREAS, most severely hit was the Goshen Community and nearby areas where a tornado touched down, claiming 21 lives and injuring more than 80 worshipers who had gathered at Goshen United Methodist Church for the Palm Sunday service; and

WHEREAS, the destructive forces took their toll also by completely leveling or severely damaging numerous houses, and leaving hundreds homeless whose belongings had been totally destroyed, buried beneath the rubble of their homes, or blown away by hurricane-force winds; and

WHEREAS, from the chaos, however, rose courage, as the people of Piedmont and surrounding communities worked side-by-side to uncover the dead and injured, to search the ruins for pieces of their lives, and to comfort those who mourned; and

WHEREAS, within minutes, after the storm struck, emergency personnel from Piedmont and nearby communities were

arriving at the scene, while rescue workers rushed to aid the victims; emergency shelters were set up for the homeless; and relief centers were opened at several locations; and

WHEREAS, people throughout the state have also responded to the needs of their fellow citizens in northeast Alabama with an outpouring of money, supplies, and other necessities, and it is with loyalty and brotherhood that we stand with them to see them through the suffering and trials of this terrible tragedy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deepest sympathy with their survivors, we mourn the loss of those who died; we further beseech the recovery of those who were injured; and give thanks for those who escaped harm from the devastating storms of March 27, 1994.

Approved April 18, 1994

Time: 10:43 A.M.

Act No. 94-500

H.J.R. 411 – Reps. Lindsey, Willis, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P),

Parker (T), Payne, Penry,
 Perdue, Petelos, Poole, Powell,
 Rich, Richardson, Rockhold,
 Rogers (F), Rogers (J),
 Sanderford, Sanderson,
 Smith (C), Smith (R), Spratt,
 Starkey, Thomas, Turner,
 Turnham, Venable, Walker,
 Warren, White, Williams,
 Zoghby

HOUSE JOINT RESOLUTION

COMMENDING THE MANY AGENCIES AND INDIVIDUALS WHO PROVIDED ASSISTANCE TO THE STORM RAVAGED AREA OF NORTHEAST ALABAMA.

WHEREAS, Northeast Alabama suffered widespread and severe damage from violent tornadoes and thunderstorms that struck the area on Palm Sunday, March 27, 1994; and

WHEREAS, leaving death and destruction in their wake, the raging storms hit numerous communities, totally destroying or severely damaging houses, churches, businesses and other buildings; hundreds were left homeless, countless were injured; and, most lamentably, more than 20 lives were lost; and

WHEREAS, within minutes, however, emergency personnel had arrived to assist the victims, and were joined by many volunteers who worked frantically to uncover the dead and injured, to comfort those who mourned, and to help others search the rubble for any of their belongings that might possibly be salvaged; and

WHEREAS, emergency shelters were set up for the homeless, and relief stations opened and staffed at several locations; utility workers, road crews, and other agency workers were rushed to the scene; and assistance, as well as offers to help, soon began arriving from throughout the state; and

WHEREAS, the response to the needs of the citizens of Northeast Alabama has been overwhelming, and the unselfish dedicated service and support rendered in the aftermath of the devastating storms of March 27, 1994, truly exemplify the compassion and concern that the people of Alabama have for their fellowman; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most highly commend and express appreciation to all those agencies and individuals who have provided, and continue to provide, disaster relief, as well as clearing and cleaning-up services, to the

Northeast area of Alabama and to those who have suffered great losses resulting from the Palm Sunday storms of 1994.

Approved April 18, 1994

Time: 10:44 A.M.

Act No. 94-501

H.J.R. 425 – Rep. Hall (L)

HOUSE JOINT RESOLUTION

RECOGNIZING THE UNVEILING OF AN HISTORICAL MARKER BY THE CITY OF HUNTSVILLE.

WHEREAS, on May 21, 1994, an historical marker will be unveiled honoring the old Negro Baseball League during weekend ceremonies commemorating the reopening of the newly redeveloped Optimist Park in Huntsville, Alabama; and

WHEREAS, Optimist Park was the site of many Negro League games during the nineteen forties and fifties, and is the only remaining park in which the League played still in use today; and

WHEREAS, among League players who competed at the park over the years, are many whose names appear in the Baseball Hall of Fame at Cooperstown, including such greats as Satchel Paige, Jackie Robinson, Roy Campanella, Monty Irving, Hank Aaron, and Willie Mays; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with highest commendation that the Alabama Legislature notes the unveiling of an historical marker honoring the old Negro Baseball League at Optimist Park, May 21, 1994, and do further direct that a copy of this resolution be provided in acknowledgement of this momentous event.

Approved April 18, 1994

Time: 10:45 A.M.

Act No. 94-502

H.J.R. 426 – Rep. Hall (L)

HOUSE JOINT RESOLUTION

COMMENDING BOBBY HAYDEN OF HUNTSVILLE, ALABAMA.

WHEREAS, it is with sincere gratitude and commendation that the Alabama Legislature recognizes Bobby Hayden of Huntsville, Alabama, for his outstanding contribution to the City of Huntsville and to the state; and

WHEREAS, as a result of the dedicated efforts of Bobby Hayden, an historical marker honoring the old Negro Baseball League will be unveiled on May 21, 1994, during weekend ceremonies commemorating the reopening of the newly redeveloped Optimist Park in Huntsville; and

WHEREAS, many Negro League players, whose names appear in the Baseball Hall of Fame at Cooperstown, played at Optimist Park over the years, including such greats as Satchel Paige, Jackie Robinson, Roy Campanella, Monty Irving, Hank Aaron, and Willie Mays; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and in acknowledgement and gratitude of his outstanding contribution to the City of Huntsville and Alabama, we hereby most highly commend Bobby Hayden, for whom a copy of this resolution shall be provided.

Approved April 18, 1994

Time: 10:46 A.M.

Act No. 94-503

H.J.R. 390 – Rep. Gaines

HOUSE JOINT RESOLUTION

COMMENDING JOHN ZIMMERMAN, IV, OF HOMEWOOD, ALABAMA, FOR EXTRAORDINARY ACHIEVEMENT AND SPORTSMANSHIP.

WHEREAS, John Zimmerman, IV, is one of our nation's most accomplished ice skaters and worthy of public recognition; and

WHEREAS, Mr. Zimmerman and his skating partner, Brie Teaboldt, are the most promising young Olympic-hopeful pair figure skaters for the 1998 Winter Olympic games in Nagano, Japan; and

WHEREAS, Mr. Zimmerman who, with his partner, won the Gold Medal in the 1994 National Novice Pairs Championship and the 1993 Novice Pairs Championship in the Great Lakes Regional and the Midwestern Sectional, has placed within the top ten in all competitions throughout his skating career; and

WHEREAS, Mr. Zimmerman was awarded a "Community Hero" Award at the Fourth Annual Industrial Interchange given

by Alabama Power Company in Point Clear, Alabama, in 1992 and, in 1994, was awarded "The Nancy Glenn Memorial Trophies" by the United States Figure Skating Association; and

WHEREAS, Mr. Zimmerman has ably represented the finest qualities of our youth on various television and radio programs over the past few years; and

WHEREAS, Mr. Zimmerman has maintained a part-time job while devoting countless hours of training to his craft; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of extraordinary achievement and sportsmanship, we hereby most highly commend Mr. John Zimmerman, IV, whom we hold in warmest personal regard, and to whom a copy of this resolution shall be presented.

Approved April 18, 1994

Time: 10:47 A.M.

Act No. 94-504

H.J.R. 386 – Rep. Gullatt

HOUSE JOINT RESOLUTION

COMMENDING THE 1993-94 CHATTAHOOCHEE VALLEY COMMUNITY COLLEGE LADY PIRATES ON AN OUTSTANDING BASKETBALL SEASON.

WHEREAS, the Legislature of Alabama most heartily commends the Chattahoochee Valley Community College Lady Pirates Basketball team on its outstanding 1993-94 season, winning 25 games with only eight losses; and

WHEREAS, under the talented leadership of Coach Wendell Barr, District VI Coach of the Year, and Assistant Coach Anthony Harris, the Lady Pirates captured the prestigious title of National Junior College Athletic Association, Division II, National Runner-Up and three players won coveted positions as follows: Jennifer Davis - Division II National Tournament All-Tournament Team; Melinda Brooks Division II National Tournament All-Tournament Team, AJCCC All-Conference Team; and Phyllis Baker - AJCCC All-Conference Team; and

WHEREAS, for the Chattahoochee Valley Community College, the 1993-94 basketball season was indeed a year of capturing the title and honors for the Lady Pirates, with each and every team member, coaches, and managers greatly contributing to a spectacular season; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend the Chattahoochee Valley Community College Lady Pirates, the coaches, and staff on their 1993-94 conference and national honors and outstanding championship season, and do further direct that copies of this resolution be forwarded to Coach Wendell Barr for appropriate presentation and display.

Approved April 18, 1994

Time: 10:48 A.M.

Act No. 94-505

H.J.R. 402 – Rep. Barnes

HOUSE JOINT RESOLUTION

COMMENDING MRS. MATTIE LEE MCINTOSH OF BIRMINGHAM, ALABAMA.

WHEREAS, it is with highest commendation and a deep sense of gratitude that the Alabama Legislature recognizes Mrs. Mattie Lee McIntosh of Birmingham, Alabama, for her many years of dedicated service to child care; and

WHEREAS, Mattie Lee McIntosh, as one of thirteen siblings, learned early the responsibilities and rewards of caring for children and thus chose child care as her lifetime ministry; and

WHEREAS, for more than forty years, A'nt Matt, as she is affectionately known, has opened her home and heart to any child in need of care and, despite meager resources, has managed to lovingly nurture and provide for the needs of the children without ever a hint of impatience or complaint; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition and tribute to her longtime, dedicated service in the field of child care, we hereby most heartily commend Mrs. Mattie Lee McIntosh for whom a copy of this resolution shall be provided as a mere token of our high esteem and warmest personal regard.

BE IT FURTHER RESOLVED, That this exceptional lady shall be honored by having July 23, 1994, designated as "Mrs. Mattie Lee McIntosh Day" and that the citizens of Alabama, Birmingham, and the Woodlawn area shall pause on that day to give thanks and praise in loving acknowledgement of her devotion and inspiration.

Approved April 18, 1994

Time: 10:49 A.M.

Act No. 94-506

S.J.R. 129 – Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Escott-Russell, Figures, Floyd, Ghee, Hale, Hill, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Sanders, B. Smith, J. Smith, Underwood, Waggoner, Wilson and Windom

SENATE JOINT RESOLUTION

RECOGNIZING EUGENE CRUM FOSHEE OF ANDALUSIA FOR OUTSTANDING SERVICE TO THE STATE OF ALABAMA.

WHEREAS, since 1967, the Honorable Crum Foshee of Andalusia has devoted the major portion of his life in dedicated public service as a member of the Alabama State Legislature, and has most ably served in the best interests of his constituents, and to the common good and well-being of all Alabamians; and

WHEREAS, born in Red Level, Alabama, December 13, 1937, Eugene Crum Foshee is the son of Ruby Faye Huggins and the late Wheeler George Foshee, and is a graduate of Red Level High School where he was active in student affairs and received All-State honors as a halfback on his school's football team; he then attended Auburn University, became a successful farmer, cotton ginner, and operator of a peanut shelling plant in Red Level and, after becoming a member of the Legislature, worked for a major Alabama contracting firm; and

WHEREAS, Mr. Foshee was first elected to the State Legislature in 1966 as a member of the House of Representatives from District 40, Covington and Geneva Counties, and answered his first roll call for the opening of the Organizational Session on January 10, 1967; he was subsequently elected to the Alabama Senate for the 1970-1974 term, and presently serving his fifth term in the Senate from District 31, after serving previously from Senate Districts 20 and 25, has represented constituencies from eight South Alabama counties, or portions thereof, over the course of his career; and

WHEREAS, reflecting Senator Foshee's outstanding leadership ability are the more than a dozen standing committee assignments he has received in both the House and Senate, seven of which he has served as chairman, including Rules, Agriculture, Business and Labor Relations, and Commerce, Transportation,

and Utilities, and was the first chairman of the Senate Confirmations Committee; and

WHEREAS, he further has served as deputy or vice chairman of a number of other committees; as a member or in leadership of many sub-committees and countless interim committees; and, due to his instrumental role in the development of Alabama's modern transportation system, continues to actively serve as a member of the Permanent Joint Highway Committee; and

WHEREAS, among other significant accomplishments, Senator Foshee is a member of the Legislative Council; a member of the University of South Alabama's Board of Trustees, and serves by appointment as a member of the Board's Budget and Finance Committee; serves on the Legislative Oversight Committee of the Agricultural Development Authority; and he successfully passed the 1993 legislation that established the Alabama Insurance Board of which he is chairman; and

WHEREAS, Senator Crum Foshee, who has elected not to seek a seventh legislative term, is indeed one of Alabama's most prominent and forceful leaders, whose positive impact upon the State of Alabama, and on legislative affairs at both the regional and national levels, has been of inordinate benefit, and will be greatly missed; now therefore,

BE IT RESOLVED THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding leadership and dedicated service to the Alabama Legislature, and to the State of Alabama and all citizens thereof, we hereby most highly commend Eugene Crum Foshee of Andalusia, Alabama, a valued friend and colleague whom we hold in highest personal regard, and to whom a copy of this resolution shall be presented.

Approved April 18, 1994

Time: 2:00 P.M.

Act No. 94-507

H.J.R. 380 – Rep. Campbell

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Thursday, April 7, 1994, they adjourn to meet again on Tuesday, April 12, 1994.

Approved April 18, 1994

Time: 2:01 P.M.

Act No. 94-508

H.J.R. 356 – Reps. Rockhold, Zoghby, Gaston,
Turner, Box, Buskey,
Clark (W), Kennedy, Harper,
Kvalheim

HOUSE JOINT RESOLUTION

COMMENDING MICHAEL E. ZOGHBY, OUTSTANDING
JURIST, ON HIS DISTINGUISHED CAREER.

WHEREAS, the Alabama Legislature notes that Michael E. Zoghby, distinguished Circuit Judge of the Thirteenth Judicial Circuit of Alabama since 1971, elected to retire and serve as a Retired Circuit Judge, effective March 31, 1994, and has worked tirelessly for the improvement of the legal system, generally, and the Mobile County community for over 30 years, serving more than 24 years as Circuit Judge of the Thirteenth Judicial Circuit; and

WHEREAS, Judge Zoghby is a graduate of McGill Institute, received his Bachelor of Science Degree in Commerce in 1954, with cum laude honors from Spring Hill College in Mobile, and received his Juris Doctor Degree from the University of Alabama; and

WHEREAS, Judge Zoghby was a volunteer in the United States Air Force where he served as a Judge Advocate, and the Secretary of Defense conferred the Air Force Commendation Medal on him for his outstanding meritorious service; upon his honorable discharge from service to his country, he resumed his legal career in private practice in Mobile, Alabama, and, from 1963 until 1971, he served as Judge of the Municipal Court of Prichard, Alabama; and

WHEREAS, Judge Zoghby is a member of numerous professional legal associations, including the American Judicature Society, the Mobile Federal Bar Association which he also served as President, and the Alabama Bar Institute of Continuing Legal Education, where he also was a faculty member, and is a Fellow in the International Academy of Trial Judges, and he has received numerous other honors from his peers for his outstanding leadership; and

WHEREAS, Judge Zoghby has been dedicated to the legal community, his church, and the citizens of Mobile County, Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend Judge Michael E. Zoghby, outstanding jurist, on his retirement from the active judgeship of the Thirteenth

Judicial Circuit in Mobile and wish for him success in every future endeavor, and as a token of our high esteem and regard, we provide a copy of this resolution for Judge Zoghby.

Approved April 18, 1994

Time: 2:05 P.M.

Act No. 94-509

H.J.R. 357 – Rep. Goodwin

HOUSE JOINT RESOLUTION

COMMENDING WALTON R. WRIGHT ON HIS INDUCTION INTO THE 1994 ALABAMA HIGH SCHOOL SPORTS HALL OF FAME.

WHEREAS, it is with sincere pleasure that the Alabama Legislature notes the induction of Walton R. Wright into the Alabama High School Sports Hall of Fame; and

WHEREAS, a Winston County native, Walton Wright, following an illustrious athletic career playing baseball, football, and basketball at Birmingham Southern where he was elected to the school's Sports Hall of Fame, began his coaching career in Madison County in 1934, while at the same time pursuing a career in semi-pro baseball; he subsequently coached at Falkville and Hackleburg and, from 1937 to 1964, was renowned as Mr. Athletics at Sheffield High School; and

WHEREAS, Coach Wright, over his impressive football coaching career, compiled an impressive 141-64-8 overall record in 27 years, which included a 28-game winning streak in the mid-1940s; and

WHEREAS, Mr. Wright continued to work with young people following his retirement from coaching in 1964, serving as Recreation Director for the City of Sheffield and coordinator of the elementary school physical education program from 1965 to 1973; he also volunteered over 3,000 hours in service to the Helen Keller Memorial Hospital; and

WHEREAS, legendary as a coach, and revered as a teacher, Coach Wright had a profound impact on the countless youth who came under his tutelage; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition and gratitude for outstanding contributions to Alabama's youth and to athletics, and as a member of the Alabama High School

Sports Hall of Fame, we hereby most highly commend Walton R. Wright, for whom a copy of this resolution shall be provided.

Approved April 18, 1994

Time: 2:06 P.M.

Act No. 94-510

H.J.R. 358 – Rep. Laird

HOUSE JOINT RESOLUTION

COMMENDING JOHN A. GARRETT OF SNOWDOWN, ALABAMA.

WHEREAS, on the occasion of his retirement as Executive Vice President of the Alabama Rural Water Association (ARWA), the Alabama Legislature most highly commends John A. Garrett on his distinguished career with the state association he was instrumental in founding and has led since its establishment in 1977; and

WHEREAS, a native of Bay Minette, Alabama, Mr. Garrett is a graduate of Baldwin County High School, and received a B.S. degree from Auburn University; for the past 50 years, he has resided at Cherokee Farms in Snowdown, Alabama, a large cattle operation which he has owned since 1944; and

WHEREAS, Mr. Garrett also is a former businessman, who owned and operated a very successful building construction firm from 1959 to 1969, at which time he was named State Director of the Farmers Home Administration (FHA), the position he held until he assumed leadership of ARWA; and

WHEREAS, under his direction, the Association has greatly expanded from a small-staffed, modest training and technical assistance program to an organization with a staff of ten that offers services in all facets of water and wastewater technology; and

WHEREAS, as Executive Vice President of ARWA, and in his former position with FHA, Mr. Garrett has been involved in the development of water and wastewater systems throughout Alabama and the nation, and the leadership he has rendered, in both capacities, has been widely acclaimed with the bestowal of numerous awards, honors and distinctions; and

WHEREAS, Mr. Garrett has further and often been recognized for outstanding community service and leadership to numerous charitable and civic organizations, including the Rotary Club, Camp ASCCA, Snowdown Volunteer Fire Department, Alabama

Society for Crippled Children and Adults, Future Farmers of America, and the Montgomery Area Council on Aging, among many others; and

WHEREAS, John Garrett is indeed one of our state's most prominent citizens whose commitment to his many careers, to volunteer community service, and to his fellow citizens is exemplary in every respect; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on the occasion of his retirement as Executive Vice President of the Alabama Rural Water Association, and in recognition of his many past contributions and accomplishments, we hereby commend John A. Garrett, whom we hold in highest personal regard, and for whom a copy of this resolution shall be provided.

Approved April 18, 1994

Time: 2:07 P.M.

Act No. 94-511

H.J.R. 373 —Reps. Kennedy, Higginbotham, Clark (W), Zoghby, Buskey, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Hill, Hilliard, Hogan, Holiaday, Holley, Holmes, Hooper, Johnson, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P),

Parker (T), Payne, Penry,
 Perdue, Petelos, Poole, Powell,
 Rich, Richardson, Rockhold,
 Rogers (F), Rogers (J),
 Sanderford, Sanderson,
 Smith (C), Smith (R), Spratt,
 Starkey, Thomas, Turner,
 Turnham, Venable, Walker,
 Warren, White, Williams, Willis,

HOUSE JOINT RESOLUTION

COMMENDING JOHN TYSON, JR., OF MOBILE, ALABAMA, FOR DISTINGUISHED SERVICE.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes John Tyson, Jr., of Mobile, Alabama, for his many years of distinguished service to the Alabama State Board of Education; and

WHEREAS, Mr. Tyson, who will be stepping down as a member of the Alabama State Board of Education at the end of his current term, has served as a member of the board since 1980, and as vice president of the board since he was first selected for the position by his fellow board members in 1985; Mr. Tyson has also been the defacto president through the terms of three governors; and

WHEREAS, Mr. Tyson has additionally served by appointment as a member of the State of Alabama Tenure Study Task Force, Task Force on Higher Education, Tax Reform Task Force, Education Task Force, Alabama Judicial Study Commission, and as a member of the Alabama Law Institute; and

WHEREAS, a native and lifelong resident of Mobile, Mr. Tyson, received his Bachelor of Arts degree from the University of South Alabama, and a Juris Doctorate degree from the University of Alabama; and

WHEREAS, throughout his tenure, John Tyson, has remained firm and outspoken in his advocacy of quality education, and dedicated and forthright in his efforts on behalf of Alabama's students; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding public service to education in our state, we hereby most highly commend Mr. John M. Tyson, Jr., of Mobile, Alabama, for whom a copy of this resolution shall be provided.

Approved April 18, 1994

Time: 2:08 P.M.

Act No. 94-512

H.J.R. 374 – Rep. Lindsey

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF ROBERT L. JACKSON OF CHEROKEE COUNTY.

WHEREAS, it is with profound sorrow and regret that the Alabama Legislature records the death of Mr. Robert L. Jackson of Cherokee County, Alabama, on December 20, 1993; and

WHEREAS, Mr. Jackson, who was born November 14, 1942, was an active member of the Berea Church of Christ and a dedicated engineer employed with the Georgia Department of Transportation; and

WHEREAS, a prominent and beloved member of the community, Mr. Jackson was active in the Boy Scouts of America for approximately 40 years, and was one of ten original members of Troop 245, in Gaylesville, Alabama, which he later served as Scoutmaster for 30 years; and

WHEREAS, under Robert Jackson's leadership, 30 young scouts achieved Eagle Scout status, and in 1994, all Eagle Scout rankings bestowed by the Chocolocco Council of the Boy Scouts of America will be dedicated to his memory; and

WHEREAS, the death of Robert Jackson has left an unfathomable void in the life of the community, and in the hearts of his beloved family, friends, and all those whose lives he touched in selfless care and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life of Mr. Robert L. Jackson, and extend deepest sympathy to his wife, Mrs. Vera Burleson Jackson; to his son and daughter, Warren Jackson and Stephanie Jackson Dobbs; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided.

Approved April 18, 1994

Time: 2:09 P.M.

Act No. 94-513

H.J.R. 375 – Reps. Clark (W), Buskey, Kennedy

HOUSE JOINT RESOLUTION

CONGRATULATING MRS. MINNIE TURNBO OF WHISTLER, ALABAMA, ON THE OCCASION OF HER 113TH BIRTHDAY.

WHEREAS, the Alabama Legislature is pleased to recognize Mrs. Minnie Turnbo of Whistler, Alabama, on the occasion of her 113th birthday, May 10, 1994; and

WHEREAS, Mrs. Turnbo, the mother of twelve children, three of whom are deceased, is a native of Maplesville in Chilton County, Alabama, where she was born on May 10, 1881; and

WHEREAS, Mrs. Turnbo is a well-known and much loved member of the Whistler community who, despite her advanced years, remains active as a member of the Prichard Housing Authority Senior Choir, and is active in many other endeavors, continuing to amaze everyone with her alertness, positive attitude, devotion to mankind and her ever-present warm and friendly smile; and

WHEREAS, Mrs. Turnbo, as on previous birthdays, continues to receive best wishes from the President of the United States, the City of Prichard and the State of Alabama, honoring her longevity and wishing her continuing good health, happiness and joy; and

WHEREAS, Mrs. Minnie Turnbo attributes her long life to praising God daily, a pleasant attitude, and her belief that everyone is equal; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends of Mrs. Minnie Turnbo of Whistler, Alabama, in celebrating her 113th birthday, and do further direct that she and other family members receive a copy of this resolution, executed in sincere admiration and esteem, and with all best wishes for many years to come.

Approved April 18, 1994

Time: 2:10 P.M.

Act No. 94-514

H.J.R. 377 – Rep. Cosby

HOUSE JOINT RESOLUTION

COMMENDING MR. PRINCE HATCHER'S BOXING ACCOMPLISHMENTS.

WHEREAS, the Legislature of Alabama notes with appreciation and anticipation the prestigious boxing accomplishments of Mr. Prince Hatcher of Selma, Alabama; and

WHEREAS, Prince Hatcher, who fights out of the Selma Youth Development Center under the expert eye of Coach Frank Hardy, won a unanimous decision in the regional championship in Knoxville, Tennessee, which qualified him to fight for the U.S. Championship; and

WHEREAS, this hungry heavyweight, with over fifty career victories in his five-year amateur career, earned the right to compete at the U.S. Olympic Training Center in Colorado Springs, Colorado, a notable honor given only to the most promising of our nation's amateur boxers; and

WHEREAS, Prince Hatcher, gaining important experience and improved technique with each fight, aspires to win a spot on the U.S. Olympic Team for the 1996 Olympics in Atlanta, Georgia, and a professional boxing career, praiseworthy goals the members of this legislative body unconditionally endorse; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we heartily commend the significant achievements of Mr. Prince Hatcher and sincerely wish him success in the ring and in his future endeavors.

BE IT FURTHER RESOLVED, That this exceptional boxer receive a copy of this resolution as a memento of our interest and as a symbol of our united support.

Approved April 18, 1994

Time: 2:11 P.M.

Act No. 94-515

H.J.R. 378 – Rep. Knight (J)

HOUSE JOINT RESOLUTION

COMMENDING ELIZABETH KENNEDY ON OUTSTANDING POLITICAL LEADERSHIP.

WHEREAS, the Legislature of Alabama notes with pleasure the meteoric performance of Elizabeth Kennedy who, as president of the Montgomery County Democratic Party, has caused the membership and the political contributions to quadruple during her tenure, and she has been the rallying force of the party for unity; and

WHEREAS, as first a volunteer for the 1992 Lieutenant Governor campaign, Elizabeth Kennedy coordinated the

Montgomery County Democratic Party activities, and later served as field coordinator for the Alabama Democratic Party in the southern counties where her tireless energy on behalf of the Democratic Party and good government elected her to the office of President of the Montgomery Democratic Club, the youngest person to ever serve in that capacity, for two terms; and

WHEREAS, under the zeal of Ms. Kennedy, the Democratic Party in Montgomery has developed and conducted campaign workshops and reached out in a non-partisan Christmas activity to make the holidays brighter for the children of the Capital City Boys Club and the Girls Club; and

WHEREAS, Ms. Elizabeth Kennedy has successfully undertaken the arduous task of rechartering the Alabama Young Democrats and organizing the first statewide Young Democrats Convention in more than a decade, and she has been selected for the new position of statewide coordinator for Young Democrats with the Alabama Democratic Party; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend Ms. Elizabeth Kennedy on her outstanding political leadership and career on behalf of good government and the Democratic Party, and we wish her well in her new position as statewide coordinator for Young Democrats with the Alabama Democratic Party, and we direct that a copy of this resolution be provided to her so that she may know of our commendation.

Approved April 18, 1994

Time: 2:12 P.M.

Act No. 94-516

H. 210 – Rep. Harper, Freeman

AN ACT

To make a supplemental appropriation from the Alabama Special Educational Trust Fund to the Department of Youth Services for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated from the Alabama Special Educational Trust Fund to the Department of Youth Services \$2,200,000 for the fiscal year ending September 30, 1994. Of the amount appropriated in this section, \$1,500,000 shall be

expended for capital outlay for a new facility, which shall include fencing, repairs and closing costs. This appropriation shall be in addition to any and all other funds appropriated to the Department.

Section 2. In addition, there is also hereby appropriated from the Alabama Special Educational Trust Fund to the Department of Youth Services for the C.I.T.Y. programs the sum of \$400,000 for the fiscal year ending September 30, 1994.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1994

Time: 4:00 P.M.

Act No. 94-517

H. 285 – Rep. Harper

AN ACT

To amend the Alabama Special Educational Trust Fund appropriation bill, Act 93-772, H. 222, 1993 Regular Session, to make a conditional appropriation to the Department of Mental Health and Mental Retardation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3A. 27. of Act 93-772, H. 222, 1993 Regular Session, is amended to read as follows:

**“27. MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF:**

(a) Institutional Treatment and Care-Mental Illness Program ..	7,046,454
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Of the above appropriation,
\$2,828,703 shall be expended
at the Eufaula Adolescent
Center.

(b) Institutional Treatment and Care-Mental Retardation Program	2,265,485
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(c) Alzheimer’s Disease Educa- tion and Training Program	150,000
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SOURCE OF FUNDS:

(1) ASETF	9,461,939	
Total Department of Mental Health and Mental Retarda- tion	9,461,939	9,461,939

In addition to the above appropriation to the Department of Mental Health and Mental Retardation, there is also hereby appropriated the sum of \$5,000,000 to be conditioned on the availability of funds in the ASETF, the recommendation of the Director of Finance and the approval of the Governor."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:00 A.M.

Act No. 94-518

H. 178 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Coalition Against Domestic Violence for the fiscal year ending September 30, 1995, and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated to the Coalition Against Domestic Violence from the State General Fund the sum of \$349,674

Section 2. There is hereby appropriated \$24,438 to the Coalition Against Domestic Violence from the State General Fund to be conditioned on the availability of funds in the State General Fund, the recommendation of the Finance Director and the approval of the Governor.

Section 3. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 4. This Act shall become effective October 1, 1994.

Approved April 21, 1994

Time: 10:01 A.M.

Act No. 94-519

H. 180 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Epilepsy Foundation of North and Central Alabama for the fiscal year ending September 30, 1995, and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated to the Epilepsy Foundation of North and Central Alabama from the Alabama Special Educational Trust Fund the sum of \$100,000.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. This act shall become effective October 1, 1994.

Approved April 21, 1994

Time: 10:03 A.M.

Act No. 94-520

H. 184 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Retired Senior Volunteer Program for the fiscal year ending September 30, 1995, and to require an operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated to the Retired Senior Volunteer Program from the State General Fund the sum of 291,593 which shall be distributed in the following manner: \$32,542 to the Foster Grandparent and Senior Companions Programs and \$259,051 to the Retired Senior Volunteer Programs.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of this report.

Section 3. This Act shall become effective October 1, 1994.

Approved April 21, 1994

Time: 10:04 A.M.

Act No. 94-521

H. 619 – Reps. Higginbotham, Turnham
AN ACT

Relating to Lee County; to provide for the police jurisdiction of any municipality located partially in Lee County.

Be It Enacted by the Legislature of Alabama:

Section 1. In Lee County, the police jurisdiction of any municipality whose corporate limits are located partially in Lee County with exception of Notasulga Alabama, shall not extend beyond the corporate limits of the municipality. This act shall affect the authority of a municipality located partially in Lee County only in Lee County.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective November 1, 1994.

Approved April 21, 1994

Time: 10:05 A.M.

Act No. 94-522

H. 208 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Alabama Council on Child Abuse, Inc. for the fiscal year ending September 30, 1995, and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated to the Alabama Council on Child Abuse, Inc. from the State General Fund the sum of One hundred thirty-eight thousand three hundred fifty- three dollars (\$138,353).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. This Act shall become effective October 1, 1994.

Approved April 21, 1994

Time: 10:06 A.M.

Act No. 94-523

H. 211 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Children's and Women's Hospital in Mobile, Alabama for the fiscal year ending September 30, 1995 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated to the Children's and Women's Hospital in Mobile, Alabama for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of \$482,793.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year ending September 30, 1995, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1994.

Approved April 21, 1994

Time: 10:07 A.M.

Act No. 94-524

H. 209 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Children's Hospital in Birmingham, Alabama for the fiscal year ending September 30, 1995 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated to the Children's Hospital in Birmingham, Alabama for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of \$700,000.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year ending September 30, 1995, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1994.

Approved April 21, 1994

Time: 10:08 A.M.

Act No. 94-525

H. 251 – Rep. Harper

AN ACT

To make an appropriation to the Department of Public Health for the fiscal year ending September 30, 1995, for educational purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Department of Public Health from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1995, the sum of \$10,002,159.

- (a) Health Support Services Program5,527,795
The above appropriation shall be expended for the continuation of the programs in Public School Sanitation, immunization activities at the county level, patient education and child health.
- (b) Personal Health Services Program3,297,539
The above appropriation shall be expended for continuation of the programs for immunization of pre-school children and students, dental health, patient education and nursing services.
- (c) Administrative Services Program526,825
The above appropriation shall be expended for the continuation of the program on Primary Preventive Health Education.

- (d) Rural Nurses Training Program.....400,000
- (e) Long-term Care Counselor Training250,000
The above appropriation shall be expended for the training
of counselors in long-term care facilities.
- (f) ALERT Fund.....750,000

To be conditioned on the availability of funds in the ASETF, the recommendation of the Director of Finance and the approval of the Governor. Upon release, the above appropriation shall be expended as provided for in Section 22-30B-19, Code of Alabama 1975.

Section 2. The above appropriation is for educational purposes which shall include but not be limited to providing for public school food sanitation, mandated immunization of pre-school children and primary preventive health education, patient education, rural nurses training and the training of long-term care counselors.

Section 3. The funds appropriated above shall be used to fund only those programs listed and for only the amounts listed. Funds not used for listed programs shall revert to the Alabama Special Educational Trust Fund at the end of the fiscal year.

Section 4. The provisions of this act are severable. If any section, paragraph, sentence, clause, provision, or portion of the act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, such holding shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made.

Section 5. This act shall become effective on October 1, 1994.

Approved April 21, 1994

Time: 10:09 A.M.

Act No. 94-526

H. 202 – Rep. Harper

AN ACT

To make an appropriation to the Department of Youth Services for the fiscal year ending September 30, 1995.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Department of Youth Services for the fiscal year ending September 30, 1995, the following amounts from the Alabama Special Educational Trust Fund (ASETF) and Federal and Local Funds:

	ASETF	Federal and Local Funds	Total
YOUTH SERVICES, DEPARTMENT OF:			
(a) Youth Services Program....			27,225,388
SOURCE OF FUNDS:			
(1) ASETF	25,920,297		
(2) Federal and Local Funds...		1,305,091	
Total Department of Youth Services.....	25,920,297	1,305,091	27,225,388

Of the above appropriation, the sum of \$65,000 shall be used to fund a Juvenile Justice Alternative Detention Pilot program study.

Section 2. The above appropriation is made for educational purposes which shall include but shall not be limited to providing social and educational services plus facilities to youth referred to the program and providing for the education of such individuals including educating youth to turn away from a life of crime.

Section 3. Of the above appropriation to the Department of Youth Services, (1) the amount of \$100,000 shall be expended for the Youth Center in Chilton County and (2) the amount necessary shall be expended to reestablish the welding program at the youth facility at Mount Meigs.

Section 4. The Department of Youth services is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1994-95.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This Act shall become effective on October 1, 1994.

Approved April 21, 1994

Time: 10:10 A.M.

Act No. 94-527

H. 219 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Alabama Kidney Foundation, Inc. for the fiscal year ending September 30, 1995, and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated to the Alabama Kidney Foundation, Inc. from the State General Fund the sum of \$300,000. In addition to the above appropriation, there is hereby appropriated from the State General Fund for the fiscal year ending Sept. 30, 1995 the amount of \$221,000 to be conditioned upon the availability of funds in the State General Fund and upon approval of the Governor.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. This Act shall become effective October 1, 1994.

Approved April 21, 1994

Time: 10:12 A.M.

Act No. 94-528

H. 692 – Rep. Harper

AN ACT

To provide an appropriation for the support and maintenance of the Emergency Medical Services Programs for the fiscal year ending September 30, 1995.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1995, the sum of \$4,180,831 out of the funds accruing to the Alabama Special Educational Trust Fund after the effective date of this act to be used for the support and maintenance of the Emergency Medical Services Programs as follows:

(1) Alabama Department of Public Health for funding the Birmingham Regional Emergency Medical Services System, \$320,512.

(2) Alabama Department of Public Health for funding East Alabama Emergency Medical Services, Inc., \$320,512.

(3) Alabama Department of Public Health for funding North Alabama Emergency Medical Services, Inc., \$320,511.

(4) Alabama Department of Public Health for funding Southeast Alabama Emergency Medical Services, Inc., \$320,511.

(5) Alabama Department of Public Health for funding Southwest Alabama Emergency Medical Services, Inc., \$320,511.

(6) Alabama Department of Public Health for funding West Alabama Emergency Medical Services, Inc., \$320,511.

(7) Alabama Department of Public Health for funding regional equipment and training grant funds for emergency medical services, \$379,594.

(8) Alabama Department of Public Health for improvement in emergency medical services through services offered at the state level, \$230,839.

Section 2. The amounts appropriated under subsections (1) through (6) of Section 1 shall be used to fund contracted services to permit operation and maintenance of the agencies named and for the purchase of instructional supplies and new instructional equipment by those agencies. The amount appropriated under subsection (7) shall be disbursed by contract with the agencies named for placement in segregated accounts to be used exclusively for grants for reimbursement of the cost of equipment and tuition and expenses for training by emergency medical services providers. Funds shall be allocated to the agencies named based upon the following formula: 50 percent to be divided equally among the agencies named; 25 percent to be apportioned among the agencies based upon the number of square miles in the geographic area represented by each agency; and 25 percent to be apportioned among the agencies based upon the population of the area represented by each agency according to the latest federal census. Any funds not contracted for and expended for the purposes of this act shall revert to the appropriate fund at the end of the fiscal year.

Section 3. The Alabama Emergency Medical Services Education Commission (hereafter referred to as the Commission) shall expend the funds that are appropriated for such purpose by the Legislature by making grants to state junior colleges, state technical colleges, and other public institutions of higher learning for the purposes of providing emergency medical services education. For the fiscal year ending September 30, 1995, the Commission shall expend the sum of \$1,647,330 for purposes of this section. To be eligible for a grant from the Commission, an

institution shall be certified by the Alabama Department of Public Health as having an emergency medical services primary education program whose graduates are eligible to be examined for state licensure as emergency medical technicians at the EMT-Basic, EMT-Intermediate, or EMT-Paramedic level or a combination thereof and of the amount above of \$1,647,330, not less than \$100,000 shall be granted to S.D. Bishop State Junior College and shall be subject to all conditions imposed by the Emergency Medical Services Education Commission on other grantees.

Section 4. Grants from the Commission shall contain such conditions that in the view of the Commission are necessary to assure that grant funds are expended for emergency medical services education purposes. The Commission may require audited financial statements as a condition of grant acceptance.

Section 5. This act shall become effective on October 1, 1994 after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:15 A.M.

Act No. 94-529

H. 291 – Rep. McKee

AN ACT

To amend Section 40-23-2 of the Code of Alabama 1975, which provides for a tax on the gross receipts on the operation of places of exhibition, display, amusement, or entertainment and to exempt football playoffs from the tax and to provide for the continued collection and retention of the funds by the collecting school.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-23-2 of the Code of Alabama 1975, is amended to read as follows:

“§40-23-2.

“There is levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

“(1) Upon every person, firm, or corporation, (including the state of Alabama and its alcoholic beverage control board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn

University, and all other institutions of higher learning in the state, whether the institutions be denominational, state, county, or municipal institutions, any association or other agency or instrumentality of the institutions) engaged or continuing within this state, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships, other watercraft, and commercial fishing vessels of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the state of Alabama department of conservation and natural resources), an amount equal to four percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of the business at the rates specified, when his or her books are kept so as to show separately the gross proceeds of sales of each business, and when his or her books are not kept he or she shall pay the tax as a retailer, on the gross sales of the business.

"Where any used part including tires of an automotive vehicle or a truck trailer, semitrailer, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part or tire, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part or tire sold less the credit for the used part or tire taken in trade, provided, however, this provision shall not be construed to include batteries.

"(2) Upon every person, firm, or corporation engaged or continuing within this state in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, (including athletic contests, conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether the institution or association be a denominational, a state, or county, or a municipal institution, or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the state of Alabama, an amount equal to four percent of the gross receipts of any such business. Provided, however, notwithstanding any language to the

contrary in the prior portion of this subdivision, the tax provisions so specified shall not apply to any athletic event conducted by a public primary or secondary school or any football playoff conducted by or under the auspices of the Alabama High School Athletic Association. The tax amount which would have been collected pursuant to this subdivision shall continue to be collected by the public primary or secondary school but shall be retained by the school which collected it and shall be used by the school for school purposes.

“(3) Upon every person, firm, or corporation engaged or continuing within this state in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property an amount equal to one and one-half percent of the gross proceeds of the sale of the machines. The term ‘machine,’ as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of the machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of the machines and which are necessary to the operation of the machines and are customarily so used.

“(4) Upon every person, firm, or corporation engaged or continuing within this state in the business of selling at retail any automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes, and any other materials pertaining thereto an amount equal to two percent of the gross proceeds of sale of the automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies provided, however, where a person subject to the tax provided for in this subdivision withdraws from his or her stock in trade any automotive vehicle or truck trailer, semitrailer, or house trailer for use by him or her or by his or her employee or agent in the operation of the business, there shall be paid, in lieu of the tax levied herein, a fee of five dollars (\$5) per year or part thereof during which the automotive vehicle, truck trailer, semitrailer, or house trailer shall remain the property of the person. Each year or part thereof shall begin with the day or anniversary date, as the case may be of such withdrawal and shall run for the 12 succeeding months or part thereof during which the automotive vehicle, truck trailer, semitrailer, or house trailer shall remain the property of the person.

“Where any used automotive vehicle or truck trailer, semitrailer, or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

"Sales of automobiles, motorcycles, trucks, truck trailers, or semitrailers that will be registered or titled outside Alabama, that are exported or removed from Alabama within 72 hours by the purchaser or his or her agent for first use outside Alabama are not subject to the Alabama sales tax. Sales of other vehicles such as mobile homes, motor bikes, all terrain vehicles, and boats do not qualify for the export exemption provision and are taxable unless the dealer can provide factual evidence that the vehicle was delivered outside of Alabama or to a common carrier for transportation outside Alabama. In order for the sale to be exempt from Alabama tax, the information relative to the exempt sale shall be documented on forms approved by the revenue department.

"Of the total \$.02 tax on each dollar of sale provided hereunder, \$.015 or 75 percent of the total tax generated by this subdivision (4) shall be deposited to the credit of the Alabama special educational trust fund; and \$.005, or 25 percent of the total tax generated by this subdivision (4) shall be deposited to the credit of the state general fund.

"(5) Upon every person, firm, or corporation engaged or continuing within this state in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products, and substitutes therefor, there is levied a tax equal to three percent of the cost of the food, food products, and beverages sold through the machines, which cost for the purpose of this subdivision shall be the gross proceeds of sales of the business."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:16 A.M.

Act No. 94-530

H. 552 – Rep. Blakeney

AN ACT

To amend Section 17-4-156 of the Code of Alabama 1975, relating to meeting days for county boards of registrars to further provide for the maximum number of meeting days for certain boards of registrars.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-4-156 of the Code of Alabama 1975, is amended to read as follows:

“§17-4-156.

“(a) Each member of the board of registrars in the counties of Chambers, Cherokee, Clarke, Clay, Cleburne, Conecuh, Coosa, Crenshaw, Dallas, Escambia, Geneva, Hale, Henry, Lawrence, Limestone, Lowndes, Perry, Sumter, Talladega, Washington, and Wilcox may meet a maximum of 120 working days each fiscal year beginning October 1, 1984, and thereafter; each member of the board of registrars in the counties of Barbour, Blount, Butler, Covington, Fayette, Greene, Lauderdale, Lee, Marengo, Marion, Pickens, Pike, Randolph, St. Clair, and Winston may meet a maximum of 168 working days each fiscal year beginning October 1, 1984, and thereafter, except in the counties of Lee and Pike each board of registrars may meet up to an additional 30 session days each fiscal year, at the discretion of the chairman of the county commission, beginning October 1, 1985, and thereafter and such days shall be paid from the respective county funds; each member of the board of registrars in Tallapoosa County may meet a maximum of 220 working days each fiscal year beginning October 1, 1994, and thereafter; each member of the board of registrars in the counties of Dale, Franklin, Houston, Marshall, Bullock, Macon, and Tuscaloosa may meet a maximum of 216 working days each fiscal year beginning October 1, 1984, and thereafter; and each member of the boards of registrars in the counties of DeKalb, Elmore, Jackson, Russell, and Shelby may meet a maximum of 167 working days each fiscal year beginning October 1, 1984, and thereafter.

“(b) In the counties of Choctaw, Coffee, Colbert, Cullman, and Monroe, each member of the board of registrars may meet a maximum of 199 working days each fiscal year beginning October 1, 1984, and thereafter.

“(c) Each member of the board of registrars of Etowah, Autauga, and Bibb counties may meet a maximum of 187 working days each fiscal year. Each member of the board of registrars of Walker county may meet a maximum of 180 days each fiscal year and each member of the board of registrars of Lamar county may meet a maximum of 140 days each fiscal year.

“(d) Each member of the board of registrars in the counties of Baldwin, Calhoun, Chilton, Madison, Mobile, Montgomery, and Morgan are authorized to meet not more than five days each week for the purpose of carrying out their official duties. Jefferson county, which is now operating under the provisions of local bills, shall be exempted from the provisions of this section. Provided, however, that where the words ‘each year’ are used in the local acts the words mean ‘each fiscal year beginning October 1, 1984, and thereafter.’

“(e) The actual number of working days to be used as session days shall be determined by a quorum of the board according to the needs of the county.

“(f) As many as 25 of the allotted working days may be used for special registration sessions (i.e., those sessions held away from the courthouse in the several precincts of the county or sessions held on Saturday or between the hours of 5:00 P.M. and 9:00 P.M.) Notice of any special session scheduled by the board shall be given at least 10 days prior to the special session by: (1) bills posted at three or more public places in each election precinct affected, if the session involves precinct visits, and (2) advertisement once a week for two successive weeks in a newspaper published in the county or by radio or television announcements on a local station, or both by newspaper or announcement.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:17 A.M.

Act No. 94-531

H. 784 – Rep. Black (L)

AN ACT

Relating to Sumter County; providing for the disposition of certain fees received by the county from the disposal of hazardous waste.

Be It Enacted by the Legislature of Alabama:

Section 1. In Sumter County, the fee paid by operators of each commercial site for the disposal of hazardous waste in the amount of \$.50 per ton effective October 1, 1991, received by the county pursuant to Section 22-30B-4(b) of the Code of Alabama 1975, shall be expended as follows:

(1) The first twenty-five thousand dollars (\$25,000) per year, shall be distributed to the Sumter County Board of Commission for operating expenses of the Sumter County Legislative Delegation Office.

(2) Fifty percent of the remainder of the proceeds after distribution pursuant to subdivision (1), not to exceed seventy-five thousand dollars (\$75,000), shall be distributed to the Sumter County Board of Education for the repair of the driveways and parking areas at schools designated by the board of education.

(3) Fifty percent of the remainder of the proceeds after the distribution pursuant to subdivision (1), not to exceed one hundred thousand dollars to the Sumter County Board of Commissioners to repair the courthouse until the amount totals one hundred thousand dollars (\$100,000).

(4) The remaining funds after the distributions pursuant to subdivisions (1), (2), and (3) shall be deposited in the Sumter County General Fund for which 10% shall be earmarked for specific youth leadership education.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:18 A.M.

Act No. 94-532

H. 226 – Rep. Harper

AN ACT

To make supplemental appropriations from the Alabama Special Educational Trust Fund in the State Treasury to Sparks State Technical College and to Ingram State Community College for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. There is appropriated from the Alabama Special Educational Trust Fund in the State Treasury to Sparks State Technical College and to Ingram State Community College the sum of two hundred seventy-five thousand dollars (\$275,000) each for the fiscal year ending September 30, 1994. The appropriations made in this act are in addition to any and all other funds heretofore or hereafter appropriated to Sparks State Technical College and to Ingram State Community College. It is the intent of the Legislature that the above appropriation is to provide an approved junior college base as provided to other community colleges in Act No. 93-722, H. 222, 1993 Regular Session.

Section 2. In addition to appropriations provided in Section 1, there is appropriated from the Alabama Special Educational Trust Fund in the State Treasury to Sparks State Technical College the sum of one hundred thousand dollars (\$100,000) for the fiscal year ending September 30, 1994, for the prison education funding.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:21 A.M.

Act No. 94-533

S. 623 – Senator deGraffenried

AN ACT

Relating to Tuscaloosa County; to alter, rearrange and extend the boundary lines and corporate limits of the City of Tuscaloosa in Tuscaloosa County, Alabama, by annexing certain territory to the City, to make certain findings in regard to the public necessity for the annexation, to provide that the existence of other police jurisdictions shall not affect the validity of the annexation, to provide that there shall be no police jurisdiction of the City of Tuscaloosa adjoining the territory to be annexed or subsequently annexed, except to determine the equidistance boundary lines for annexations, to provide that subsequent annexations by the City of Tuscaloosa to Parcels 1, 2 and 3 of the territory shall only be by unanimous consent and to provide that the City shall exercise full municipal authority over the annexed territory.

Be It Enacted by the Legislature of Alabama:

Section 1. Findings: The Legislature hereby finds and determines that it is expedient, wise, necessary, proper and in the best interest of the citizens of the State of Alabama, Tuscaloosa County and the City of Tuscaloosa to alter, rearrange and extend the corporate limits of the City of Tuscaloosa as herein provided, including but not limited to the purpose of generally promoting the welfare of the State of Alabama, Tuscaloosa County and the City of Tuscaloosa and specifically, but not limited to, the initial purpose of facilitating the City of Tuscaloosa in providing certain utilities and services to the Mercedes-Benz Automotive Assembly Plant Site. Provided, however, the foregoing shall not be construed to limit in any manner or otherwise curtail the exercise of any municipal powers and authorities by the City of Tuscaloosa nor prohibit future or subsequent annexations in accordance with the provisions hereof.

Section 2. Police Jurisdiction: That any law to the contrary notwithstanding, the validity of the alteration, rearrangement and extension of the boundary lines and corporate limits of the City of Tuscaloosa by the annexation of certain territories as provided herein shall not be affected by the existence of the police jurisdiction of any other city or town, nor shall any other city or town

exercise any municipal authority or police powers of any kind within or over any portions of the said territory so annexed. Provided, however, that any law to the contrary notwithstanding and except for the purposes of annexation by unanimous consent pursuant to § 11-42-20 and 21, et seq., Code of Alabama 1975, when the police jurisdiction will exist solely for the purposes of determining a boundary which is equidistant from the respective corporate limits of the municipalities, there shall be no police jurisdiction of the City of Tuscaloosa to or over any areas adjoining the territory annexed by this act and except as provided herein, the police jurisdiction of the City of Tuscaloosa shall not exist in said areas, specifically, that the alteration, rearrangement and extension of the boundary lines and corporate limits of the City of Tuscaloosa by the annexation of certain territory as provided for herein shall not operate to extend the police jurisdiction of the City of Tuscaloosa to or over any area adjoining the said territory so annexed by the provisions of this act or to or over any area adjoining land subsequently annexed to said territory, except as provided herein.

Section 3. Subsequent Annexations: Provided, however, no area contiguous to the territory described as Parcel 1, Parcel 2 and Parcel 3 by the provisions of this act shall be subsequently annexed by the City of Tuscaloosa into its corporate limits, except by the unanimous consent of the owners of the contiguous property to be annexed.

Section 4. Jurisdiction: All territory brought within the corporate limits of the City of Tuscaloosa under the provision of this act shall be subject to the laws and ordinances of the City, and the City Council shall have and exercise the same jurisdiction over such territory as is exercised over any other territory within the corporate limits of the City.

Section 5. The boundary lines and corporate limits of the municipality of Tuscaloosa in Tuscaloosa County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following tracts or territories, to-wit:

PARCEL 1

As the POINT OF BEGINNING, start at the Southwest corner of the Northwest Quarter (NW 1/4) of Section 32, Township 21 South, Range 8 West, Huntsville Meridian, being on the present corporate limits of Tuscaloosa; thence run easterly along the South boundary of the Northwest Quarter of said Section 32 to a point which is 30 feet perpendicular distance outside the Southeast right-of-way boundary of Interstate Highway 20/59; thence run generally

northeasterly and easterly parallel to, and 30 feet perpendicular distance outside, the South right-of-way boundary of Interstate Highway 20/59 to a point on the East boundary of the Northwest Quarter of said Section 32; thence run southerly along the East boundary of said Northwest Quarter to a point which is 210 feet perpendicular distance outside the South right-of-way boundary of Interstate Highway 20/59; thence run northeasterly and easterly parallel to, and 210 feet perpendicular distance outside, the South right-of-way margin of Interstate Highway 20/59 to a point on the East boundary of the Northwest Quarter of the Northwest Quarter (NW 1/4 of the NW 1/4) of Section 33, Township 21 South, Range 8 West; thence run northerly along the East boundary of said Northwest Quarter of the Northwest Quarter to a point which is 30 feet outside the South right-of-way boundary of Interstate Highway 20/59; thence run easterly or northeasterly parallel to, and 30 feet perpendicular distance outside, the South right-of-way boundary of Interstate Highway 20/59 to a point on a line parallel to, and 450 feet east of, the East boundary of the said Northwest Quarter of the Northwest Quarter of Section 33; thence run Southerly parallel to, and 450 feet east of, the East boundary of the said Northwest Quarter of the Northwest Quarter to a point which is 210 feet perpendicular distance outside the South right-of-way boundary of Interstate Highway 20/59; thence run northeasterly or easterly parallel to, and 210 feet perpendicular distance outside, the South right-of-way boundary of Interstate Highway 20/59 to a point which is 210 feet perpendicular distance outside the Southwest boundary of Parcel No. 2 of the Brookwood Rest Area property, as described in the decree of the Tuscaloosa County Probate Court in Civil Action No. 7547, as recorded in Probate Minutes Book 129 at Pages 47-51, reference to which decree is made in aid of this description; thence run in a counter-clockwise direction parallel to, and 210 feet perpendicular distance outside, the southwestern, southern, and eastern boundary of said Parcel No. 2 to a point on the South right-of-way boundary of Interstate Highway 20/59; thence run easterly along the South right-of-way boundary of Interstate Highway 20/59 to the point of intersection of the South right-of-way boundary of Interstate Highway 20/59 and the East right-of-way boundary of County Road 59 (Covered Bridge Road); thence run southwesterly along the East boundary of County Road 59 to a point which is 100 feet perpendicular distance South of the South right-of-way boundary of Interstate Highway 20/59; thence run easterly parallel to, and 100 feet perpendicular distance outside, the South right-of-way boundary of Interstate Highway 20/59 to a point on the East boundary of Section 29, Township 21 South, Range 7 West; thence run northerly along the East boundary of said Section 29 to a point which is 30 feet perpendicular distance outside the South right-of-way boundary of Interstate Highway 20/59; thence run easterly

parallel to, and 30 feet perpendicular distance outside, the South right-of-way boundary of Interstate Highway 20/59 to a point on the East boundary of Section 22, Township 21 South, Range 7 West; thence run northerly along the East boundary of said Section 22 to a point on the North right-of-way boundary of Interstate Highway 20/59; thence run westerly or southwesterly along the north right-of-way boundary of Interstate Highway 20/59 to a point on the East boundary of the Southwest Quarter of the Southwest Quarter of said Section 22; thence run northerly along the East boundary of the Southwest Quarter of the Southwest Quarter to a point which is 30 feet perpendicular distance outside the North right-of-way boundary of Interstate Highway 20/59; thence run westerly parallel to, and 30 feet perpendicular distance outside, the North right-of-way boundary of Interstate Highway 20/59 to a point on the East boundary of Section 30, Township 21 South, Range 7 West; thence run northerly along the East boundary of Section 30 to a point which is 210 feet perpendicular distance outside the North right-of-way boundary of Interstate Highway 20/59; thence run westerly parallel to, and 210 feet perpendicular distance outside, the North right-of-way boundary of Interstate Highway 20/59 to a point on a line parallel to, and 210 feet perpendicular distance outside, the Northeast boundary of Parcel No. 1 of the hereinabove referenced Brookwood Rest Area property; thence run in a counter-clockwise direction parallel to, and 210 feet perpendicular distance outside, the northeastern, northern, and western boundary of said Parcel No. 1 to a point which is 210 feet perpendicular distance outside the North right-of-way boundary of Interstate Highway 20/59; thence run westerly parallel to, and 210 feet perpendicular distance outside, the North right-of-way boundary of Interstate Highway 20/59 to a point on the West boundary of the Northwest Quarter (NW 1/4) of Section 32, Township 21 South, Range 8 West, being on the present corporate limits of Tuscaloosa; thence run southerly along the West boundary of said Northwest Quarter and along the present corporate limits of Tuscaloosa to the southwest corner of the Northwest Quarter of said Section 32, being the POINT OF BEGINNING.

NOTE: As used herein, where the right-of-way boundary of Interstate Highway 20/59 intersects the right-of-way boundaries of an intersecting road, the term "right-of-way boundary of Interstate Highway 20/59" shall be understood to include a straight line connecting the points of intersection of the Interstate Highway 20/59 right-of-way boundary with the east and west right-of-way boundaries, respectively, of the intersecting roads.

PARCEL 2

A 100 foot annexation corridor being located in the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the

Southwest Quarter, the Southwest Quarter of the Northwest Quarter of Section 30, Township 21 South, Range 7 West and the Southeast Quarter of the Northeast Quarter of Section 25, Township 21 South, Range 8 West, all in Tuscaloosa County, Alabama, being 25 feet North of and at right angles to, and also 75 feet South of and at right angles to the following described center line of survey:

As a starting point start at the Northeast corner of the Northeast Quarter of the Southwest Quarter of said Section 30; thence run in a Southerly direction and along the East boundary of said Northeast Quarter of the Southwest Quarter for a distance of 25.00 feet to the POINT OF BEGINNING of the parcel herein described; thence with a deflection angle of 91 degrees 59 minutes to the right, run in a Westerly direction for a distance of 2,380.51 feet; thence with a deflection angle of 44 degrees 59 minutes to the right, run in a Northwesterly direction for a distance of 462.71 feet to the West boundary of said Section 30; thence continue along said course for a distance of 971.61 feet to the South line of the State of Alabama Brookwood Rest Area, LESS AND EXCEPT any portion of the property described herein which overlaps the boundaries of Parcel 1 as described elsewhere in this act.

PARCEL 3

A 100 foot annexation corridor being located in the Northwest Quarter of the Southeast Quarter, the Northeast Quarter of the Southeast Quarter, and the Southeast Quarter of the Northeast Quarter, all in Section 30, Township 21 South, Range 7 West in Tuscaloosa County, Alabama, being 25 feet North of and at right angles to and also 75 feet South of and at right angles to the following center line of survey:

As a starting point start at the Northwest corner of the Northwest Quarter of the Southeast Quarter of said Section 30; thence run in a Southerly direction and along the West boundary of said Northwest Quarter of the Southeast Quarter for a distance of 25.00 feet to the POINT OF BEGINNING of the parcel herein described; thence with a deflection angle of 87 degrees 49 minutes to the left, run in an Easterly direction for a distance of 721.89 feet to a point on the West right-of-way of Tuscaloosa County Road No. 59, an 80 foot right-of-way; thence with a deflection angle of 45 degrees 00 minutes to the right, run in a Southeasterly direction for a distance of 141.46 feet; thence with a deflection angle of 45 degrees 00 minutes to the left run in an Easterly direction for a distance of 545.76 feet; thence with a deflection angle of 45 degrees 00 minutes to the left run in a Northeasterly direction for a distance of 1,436.67 feet to the end of Parcel No. 3, said point being on the South right-of-way of Ramp "D" of the Interstate Highway

20/59 and Tuscaloosa County Road No. 59 interchange, LESS AND EXCEPT any portion of the property described herein which overlaps the boundaries of Parcel 1 as described elsewhere in this act.

PARCEL 4

As the POINT OF BEGINNING, start at the point where the South right-of-way boundary of Interstate Highway 20/59 intersects the West boundary of the East Quarter (E 1/4) of Section 35, Township 21 South, Range 9 West, Huntsville Meridian, said point being on the present corporate limits of Tuscaloosa; thence run northerly along the West boundary of said East Quarter, and along the present corporate limits of Tuscaloosa, to a point which is 210 feet perpendicular distance outside the North right-of-way boundary of Interstate Highway 20/59; thence run easterly parallel to, and 210 feet perpendicular distance outside, the North right-of-way boundary of Interstate Highway 20/59 to a point on the East right-of-way boundary of Clements Road; thence run southeasterly along the East right-of-way boundary of Clements Road to a point on the North right-of-way boundary of Interstate Highway 20/59; thence run easterly along the North right-of-way boundary of Interstate Highway 20/59 to a point on the East boundary of Lot 1, W. E. Walker Survey, as recorded in Plat Book 5 at page 170 in the Probate Records of Tuscaloosa County; thence run northerly along the East boundary of said Lot 1 to a point which is 210 feet perpendicular distance outside the North right-of-way boundary of Interstate Highway 20/59; thence run easterly parallel to, and 210 feet perpendicular distance outside, the North right-of-way boundary of Interstate Highway 20/59 to a point on the West boundary of Section 31, Township 21 South, Range 8 West; thence run northerly along the West boundary of said Section 31 to a point on the North boundary of the Southwest Quarter of the Northwest Quarter of said Section 31; thence run easterly along the North boundary of the Southwest Quarter of the Northwest Quarter and along the present corporate limits of Tuscaloosa for a distance of 100 feet to a point; thence run southerly parallel to, and 100 feet East of, the West boundary of said Section 31 to a point on the South boundary of the Southwest Quarter of the Northwest Quarter of Section 31; thence run easterly along the South boundary of the Southwest Quarter of the Northwest Quarter to a point which is 210 feet perpendicular distance outside the North right-of-way boundary of Interstate Highway 20/59; thence run easterly parallel to, and 210 feet perpendicular distance outside, the North right-of-way boundary of Interstate Highway 20/59 to a point on the West right-of-way margin of the Norfolk Southern Railroad, being on the present corporate limits of Tuscaloosa; thence run southerly along the West right-of-way margin of the Norfolk Southern Railroad to a point on the

North right-of-way boundary of Interstate Highway 20/59; thence run westerly along the North right-of-way boundary of Interstate Highway 20/59 to a point on the West boundary of the Southeast Quarter of the Northeast Quarter (SE 1/4 of the NE 1/4) of Section 31, Township 21 South, Range 8 West; thence run southerly along the West boundary of said Southeast Quarter of the Northeast Quarter to the Southwest corner thereof, being also on the South right-of-way boundary of Interstate Highway 20/59; thence run easterly along the South boundary of the Southeast Quarter of the Northeast Quarter to a point on the West right-of-way boundary of U.S. Highway 11; thence run southeasterly along the West right-of-way boundary of U.S. Highway 11 to a point which is 210 feet perpendicular distance South of the South boundary of the said Southeast Quarter of the Northeast Quarter; thence run westerly parallel to, and 210 feet South of, the south boundary of said Southeast Quarter of the Northeast Quarter to a point 210 feet South of the Southwest corner of said Southeast Quarter of the Northeast Quarter, said point being also 210 feet south of the South right-of-way boundary of Interstate Highway 20/59; thence run westerly parallel to, and 210 feet perpendicular distance outside, the south right-of-way boundary of Interstate Highway 20/59 to a point on the East boundary of the West Quarter (W 1/4) of Section 31, Township 21 South, Range 8 West; thence run northerly along the East boundary of the said West Quarter to a point on the South right-of-way boundary of Interstate Highway 20/59; thence run westerly along the South right-of-way boundary of Interstate Highway 20/59 to the Northeast corner of Lot 1 of the Resubdivision of Lot 1, Old Wire Estates, as recorded in Plat Book 18 at Page 276 in the Probate Records of Tuscaloosa County; thence run southerly along the East boundary of said Lot 1 of the Resubdivision of Lot 1 to a point which is 30 feet perpendicular distance outside the South right-of-way boundary of Interstate Highway 20/59; thence run westerly parallel to, and 30 feet perpendicular distance outside, the South right-of-way boundary of Interstate Highway 20/59 to a point on the West boundary of the East Quarter (E 1/4) of Section 35, Township 21 South, Range 9 West; thence run northerly along the West boundary of the said East Quarter to a point on the South right-of-way boundary of Interstate Highway 20/59, being the POINT OF BEGINNING.

PARCEL 5

A tract of land located in Section 34, Township 21 South, Range 9 West, Huntsville Meridian, in Tuscaloosa County, Alabama, being more particularly described as follows:

To locate the point of beginning, start at the intersection of the Southeast right-of-way boundary of U.S. Highway 11 and the North

right-of-way boundary of Interstate Highway 20/59, being on the present corporate limits of Tuscaloosa; thence southeasterly along the North right-of-way boundary of Interstate Highway 20/59, a distance of 300 feet to a point; thence with a deflection angle of 61 degrees 57 minutes to the left, run northeasterly along the present corporate limits of Tuscaloosa a distance of 400 feet, more or less, to a point on the South right-of-way boundary of JVC Road, being the POINT OF BEGINNING; thence continue northeasterly along the line last described, a distance of 83.4 feet, more or less, to a point; thence with a deflection angle of 52 degrees 25 minutes to the right run southeasterly along the present corporate limits of Tuscaloosa a distance of 418.9 feet to a point on the West boundary of the Southeast Quarter of the Northwest Quarter (SE 1/4 of the NW 1/4) of Section 34; thence run southerly along the said West boundary a distance of 57.5 feet to a point on the North boundary of the South Half of the South Half of the Southeast Quarter of the Northwest Quarter (S 1/2 of the S 1/2 of the SE 1/4 of the NW 1/4) of Section 34; thence run easterly along the said North boundary to a point on the North right-of-way boundary of JVC Road, thence run easterly along the North boundary of JVC Road to a point on the East boundary of Section 34; thence run southerly along the East boundary of Section 34 to a point which is 80 feet perpendicular distance North of the North right-of-way boundary of Interstate Highway 20/59; thence run westerly parallel to, and 80 feet perpendicular distance outside, the North right-of-way boundary of Interstate Highway 20/59, and along the present corporate limits of Tuscaloosa, to a point on the West boundary of the East Quarter (E 1/4) of Section 34; thence run southerly along the West boundary of the East Quarter of Section 34 to a point which is 210 feet perpendicular distance outside the South right-of-way boundary of Interstate Highway 20/59; thence run westerly parallel to, and 210 feet perpendicular distance outside, the South boundary of Interstate Highway 20/59 to a point on the East boundary of the West Quarter (W 1/4) of Section 34; thence run northerly along the East boundary of the West Quarter of Section 34 to a point which is 30 feet perpendicular distance outside the South right-of-way boundary of Interstate Highway 20/59; thence run westerly parallel to, and 30 feet perpendicular distance outside, the South right-of-way boundary of Interstate Highway 20/59 to a point on the West boundary of Section 34; thence run northerly along the West boundary of Section 34 to a point on a line, said line being formed by connecting existing right-of-way markers, said markers being 100 feet perpendicular distance northwest from U.S. Highway 11 centerline station 561 + 85 and 100 feet perpendicular distance southeast from U.S. Highway 11 centerline station 563 + 50; thence run southeasterly along the said line, and along the present corporate limits of Tuscaloosa, to a highway marker located 100 feet at

right angles to the centerline of U.S. Highway 11 centerline station 563 + 50; thence run northeasterly along the Southeast boundary of U.S. Highway 11, and along the present corporate limits of Tuscaloosa to a point on the North right-of-way boundary of Interstate Highway 20/59; thence run easterly along the North right-of-way boundary of Interstate Highway 20/59 to a point on the East boundary of the West Half of the Northeast Quarter of the Southwest Quarter (W 1/2 of the NE 1/4 of the SW 1/4) of Section 34; thence run northerly along the said East boundary to a point on the South right-of-way boundary of JVC Road; thence run northwesterly along the South right-of-way boundary of JVC Road to the POINT OF BEGINNING.

Section 6. A map showing the territory to be annexed into the City of Tuscaloosa, Tuscaloosa County, by the provisions of this act, is on file in the office of the Judge of Probate, Tuscaloosa County, Alabama, and is open to inspection by the public.

Section 7. The provisions of this act are severable. If any part or provision of this act is declared invalid or unconstitutional, such declaration shall not affect the part or portions which remain.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:25 A.M.

Act No. 94-534

S. 636 – Senator Lindsey

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Demopolis in Marengo County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Demopolis in Marengo County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

TRACT A

All that part of Sections 21 and 22 lying southerly of the south boundary of the Southern Railroad, and all of Section 27, and all of

Section 33, and all that part of Section 28 lying northerly of the southerly boundary of U.S. Highway 80, all being in Township 18 North, Range 3 East, Marengo County, Alabama.

TRACT B

All of Section 6, Township 17 North, Range 3 East, Marengo County, Alabama.

Less and except that part within the present city limits of the City of Demopolis.

TRACT C

All of Sections 34 and 35, Township 18 North, Range 2 East, Marengo County, Alabama.

Less and except that part within the present city limits of the City of Demopolis.

TRACT D

All of Section 1, Township 17 North, Range 2 East, Marengo County, Alabama.

Less and except that part within the present city limits of the City of Demopolis.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Demopolis is on file in the office of the Judge of Probate in Marengo County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:26 A.M.

Act No. 94-535

S. 651 – Senator deGraffenried

AN ACT

To amend certain portions of Act No. 56, adopted in the 1953 Regular Session of the Alabama Legislature, which authorized the levy of certain sales and use taxes in Tuscaloosa County and the creation of the Tuscaloosa County Special Tax Board, to authorize the Tax Board, but only upon the direction of the governing body of Tuscaloosa County, to levy and impose, from time to time, an additional sales and use tax to equalize the rate of sales and use taxes levied in the County to

the highest rate of sales or use tax then being levied by the City of Tuscaloosa or by the City of Northport; and to provide that the proceeds from any such additional sales and use tax shall be allocated entirely to the Tuscaloosa County Commission for general county purposes. Also to amend the distribution formula, subject to the levy of the additional sales and use tax as directed by the Tuscaloosa County Commission, to reduce the share of revenue from the sales and use tax presently levied by the Tax Board and distributed to the City of Tuscaloosa, and to correspondingly increase the share distributed to Tuscaloosa County. Also to provide certain technical corrections to Act No. 56, grant regulatory authority to the Tax Board, and repeal inconsistent provisions.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1, 2, 3, 10 and 11 of Act No. 56, 1953 Regular Session, as heretofore amended, which levies a sales and use tax in Tuscaloosa County, are hereby amended to read as follows:

“Section 1. Definitions. The following words and phrases shall have the following meanings:

“(1) ‘The state’ means the State of Alabama.

“(2) ‘The county’ means Tuscaloosa County in the state.

“(3) ‘The city’ means the City of Tuscaloosa in the state.

“(4) ‘The county board of education’ means the board of education of Tuscaloosa County, Alabama.

“(5) ‘The hospital authority’ means the DCH Regional Health Care Authority.

“(6) ‘The tax board’ means the Tuscaloosa County Special Tax Board created in Section 9 of this act.

“(7) ‘This Act’ or ‘this act’ means Act No. 56, 1953 Regular Session, as heretofore and as hereby amended.

“(8) ‘State sales tax statutes’ means the provisions of Article 1, Chapter 23, Title 40, Code of Alabama 1975, as amended from time to time.

“(9) ‘State use tax statutes’ means the provisions of Article 2, Chapter 23, Title 40, Code of Alabama 1975, as amended from time to time.

“(10) ‘Quarterly period’ means each period of three calendar months commencing on each January 1, April 1, July 1, and October 1.

“(11) Pronouns include all genders.

“(12) Those words and phrases used in Sections 3 and 3A of this act that are defined in the state sales tax statutes shall have the meanings respectively given them in the state sales tax statutes. Those words and phrases used in Sections 4 and 4A of

this act that are defined in the state use tax statutes shall have the meanings respectively given them in the state use tax statutes.

“(13) ‘Maximum Rate’:

“(a) For purposes of Sections 3A and 4A of this Act, ‘Maximum Rate’ means a rate equal to the highest rate of sales or use tax now or hereafter levied by the City of Tuscaloosa or by the City of Northport within their respective corporate limits, whichever is greater, at the date of enactment of this amendatory act or at any time thereafter, provided, however, that the Maximum Rate shall not decrease as a result of a decrease in the rate of sales or use tax levied by the City of Tuscaloosa or by the City of Northport.

“(b) All references in this Act to the ‘police jurisdiction’ or ‘corporate limits’ of a municipality shall mean and refer to the municipality’s police jurisdiction or corporate limits, respectively, as now or hereafter constituted.

“Section 2. Legislative Intent. It is the intention of the legislature by the passage of this act to impose a sales tax and a use tax in the county which, in general, but with certain exceptions and differences herein specifically provided for, parallel the provisions of and are similar to the taxes levied by the state sales tax statutes and the state use tax statutes, respectively; provided, however, that the rates of the taxes herein levied shall be as set forth herein. In order to facilitate administration of this act, and to permit the filing of returns by taxpayers to be made on the same or similar forms as those required under the state sales tax statutes and the state use tax statutes, the procedures of those statutes are incorporated herein by reference, and the taxes herein levied are made subject to all exemptions provided for in the said statutes and that may be hereafter provided for in amendments of the said statutes. The purpose of the levy herein made is to provide funds for certain school and charitable purposes in the county, as well as provide funds for general county and municipal purposes, as hereinafter set forth in detail.

“Section 3. Levy of Sales Tax. There is hereby levied in the county, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

“(a) Upon every person, firm, or corporation (including the University of Alabama, and all other institutions of higher learning in the county, whether such institutions be denominational, state, county, or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or

continuing within the county, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stocks), an amount equal to two percent of the gross proceeds of sales of the business, except where a different amount is expressly provided herein. Any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept to show separately the gross proceeds of sales of each business, and when the books are not so kept, shall pay the tax as a retailer on the gross sales of the entire business.

“(b) Upon every person, firm or corporation engaged, or continuing within the county, in the business of conducting, or operating, places of amusement or entertainment, billiard and poolrooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prizefights, boxing and wrestling exhibitions, football, basketball, and baseball games (including athletic contests conducted by or under the auspices of any educational institution, or any athletic association thereof, or other association whether the institution or association is a denominational, state, county, or municipal institution, or association, or a state, county, or city school or other institution, association, or school), skating rinks, racetracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount equal to two percent of the gross receipts of any such business.

“(c) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle or truck trailer or semitrailer, an amount equal to one-half of one percent of the gross proceeds of the sale of the automotive vehicle or truck trailer or semitrailer. Where any used automotive vehicle or truck trailer or semitrailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

“(d) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property an amount equal to three-quarters of one percent of the gross proceeds of the sale of

such machines. The term 'machines,' as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

"Each exemption provided for in the state sales tax statutes, shall, during the period of time when such exemption shall be effective in the statutes, be applicable to the tax levied in this section. In the event of the repeal of the state sales tax statutes, the exemptions effective therein immediately prior to any repeal shall thereafter be applicable to the tax levied in this section. In addition thereto, and except as expressly enumerated hereinabove, there are hereby exempted from the tax levied in this section the gross receipts or gross proceeds of any business engaged in by any city or town in Tuscaloosa County. In the absence of any express provision herein to the contrary, all provisions and procedures with respect to the application for and issuance of licenses, the making of returns or reports, the contents of returns or reports, collection and payment of taxes, keeping of records, reporting and paying taxes with respect to sales on credit, determination of the amount of the tax due, penalties, assessments, notices, and examinations of taxpayers and their books provided for in the state sales tax statutes with respect to the tax levied in those statutes shall be applicable to the tax levied in this section, excepting however, the procedure for appeals from assessments, and such appeals shall be made as hereinafter set forth. Any procedure or provisions involving the State Department of Revenue which is incorporated herein by reference to the state sales tax statutes shall be deemed to apply, with respect to the tax levied in this section, to the tax board. Every person, firm, or corporation engaged in any business upon which the tax levied to the sales and admission price with respect to which the said tax is levied and shall collect the same from the purchaser.

"(e) The sale of school lunches sold by all public and private schools in Tuscaloosa County, Alabama, is expressly exempted."

"Section 10. Appeals from Assessments. Whenever any taxpayer who has duly appeared and protested a final assessment made by the tax board is dissatisfied with the assessment finally made, he may appeal from said final assessment to the Circuit Court of the county, sitting in equity, by filing notices of appeals with the secretary of the tax board and with the register of said court within thirty (30) days from the date of said final assessment, and in addition thereto by giving bond conditioned to pay all

costs, such bond to be filed with and approved by the register of said court. All provisions of Chapter 2A of Title 40 of the Code of Alabama 1975, as amended from time to time, pertaining to payment of an assessment unless a supersedeas bond shall be filed and approved, the burden of proof, and the procedure to be followed in appeals from the judgment of the said court, shall be applicable to appeals from final assessments made hereunder, and the tax board shall have with respect to such appeals all the rights conferred on and the functions assigned to the Department of Revenue by said Chapter 2A.

“Section 11. Disposition of Revenues. Any and all expenses, including (but without limitation to) salaries, office rent, and other expenses that may be necessary to provide for the collection and distribution of the taxes herein levied as may be authorized or approved by the tax board, shall be deducted by the tax board and paid out of the proceeds from said collections before any distribution of said proceeds. Provided, however, that under no circumstances shall the funds held or collected pursuant to Sections 3A and 4A of this Act be commingled with other funds held or collected by the tax board, but shall be separately invested and accounted for and all said expenses shall be charged against the proceeds distributed to each recipient in proportion to the amount of proceeds distributed. After deduction of said expenses, the tax board shall distribute the remaining proceeds from the said taxes as follows:

“(a) One hundred per cent (100%) of the proceeds held or collected pursuant to Sections 3A and 4A of this Act shall be paid to the governing body of Tuscaloosa County for general county purposes;

“(b) The amounts collected under Sections 3 and 4 of this Act are hereinafter referred to as ‘Residual Proceeds.’ Twenty-five per cent (25%) of the Residual Proceeds shall be paid to the City of Tuscaloosa for general municipal purposes; provided, however, there shall be a guaranteed minimum annual payment from the Residual Proceeds to the City of Tuscaloosa in an amount equal to the lesser of:

“(1) \$6.9 million, or

“(2) Thirty-two and one-half percent (32 1/2%) of said proceeds.

“The difference between the share of said proceeds otherwise distributable to the City of Tuscaloosa and the amount owed to it as the guaranteed minimum annual payment shall be derived from that portion of the Residual Proceeds otherwise distributable to Tuscaloosa County. Notwithstanding the preceding sentence, however, at such time as twenty-five per cent (25%) of the annual Residual Proceeds first equals or exceeds \$6.9 million, then the City of Tuscaloosa shall thereupon and thereafter receive the actual

amount of the distribution [twenty-five percent (25%) of said proceeds] and the guaranteed minimum payment shall no longer be applicable. For all subsequent years, the City of Tuscaloosa will receive twenty-five percent (25%) of said proceeds regardless of the dollar amount of said distribution.

“(c) Five percent (5%) of the Residual Proceeds remaining shall be paid to the City of Northport for general municipal purposes;

“(d) Subject to subsection (b) above, twenty percent (20%) of the Residual Proceeds remaining shall be paid to Tuscaloosa County for general county purposes;

“(e) Ten per cent (10%) of the Residual Proceeds remaining shall be paid to the hospital board, which shall use said proceeds solely to defray all or a part of the costs of any hospital operated by the hospital board for hospital services furnished to charity patients who are residents of the county, including any municipality therein;

“(f) Twenty per cent (20%) of the Residual Proceeds remaining shall be paid to the county board of education, which shall use said proceeds solely for public school purposes in the county, including, but without limitation to, payment of any bonds, warrants, notes and other obligations of the county board of education which have heretofore or may hereafter be issued for any public school purposes, together with the interest thereon and the necessary expenses in connection with the issuance thereof, acquiring, providing, or constructing school houses and related buildings necessary or convenient for public school purposes, and equipping, furnishing, maintaining, repairing or replacing any such buildings and acquiring sites therefor; and

“(g) Twenty per cent (20%) of the Residual Proceeds remaining shall be paid to the city, which shall use said proceeds solely for public school purposes in the city, including, but without limitation to, payment of any bonds, warrants, notes and other obligations of the city which have heretofore or may hereafter be issued for any public school purposes, together with the interest thereon and the necessary expenses in connection with the issuance thereof, acquiring, providing, or constructing schoolhouses and related buildings necessary or convenient for public school purposes, and equipping, furnishing, maintaining, repairing or replacing any such building and acquiring sites therefor.

“The proceeds for which distribution is provided in subsections (a), (b), (c), (d), (e), (f) and (g) of this section shall be paid over to the beneficiaries thereof, respectively, on or before the tenth day of the calendar month next succeeding the calendar month in which said proceeds shall have been received by the tax board. The tax

board is hereby authorized to retain on hand at all times as a revolving or contingent fund for payment of its expenses, as provided for in section 9(c) of this act, such amount of said tax proceeds as it deems expedient; provided, that as disbursements are made from said revolving or contingent fund, the tax board shall have the power, immediately or at such time as it deems convenient, to restore the moneys so disbursed out of the proceeds from the taxes herein levied; and provided, further, that the said revolving or contingent fund shall not at any time exceed ten per cent (10%) of the collections made under this act during the then preceding calendar month."

Section 2. The following sections are hereby added to Act No. 56, 1953 Regular Session, as heretofore amended, with new Section 3A to follow existing Section 3 of the Act, and new Section 4A to follow existing Section 4 of the Act, to read as follows:

"Section 3A. Levy of Special Sales Tax. Effective as of the date so specified in an ordinance adopted from time to time by the governing body of Tuscaloosa County directing the levy of a special sales tax as herein provided, there shall be levied in the county, in addition to all other taxes of every kind now or hereafter imposed by law, and shall be collected as herein provided, a privilege or license tax in the form of a sales tax against the person or on account of the business activities and in the amount to be determined by the application of the Maximum Rate (as defined in Section 1 of this Act) as in effect on the date of adoption of the ordinance against gross sales, or gross receipts, as the case may be, as follows:

"(a) Upon every person, firm, or corporation (including the University of Alabama, and all other institutions of higher learning in the county, whether such institutions be denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or continuing within the county, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stocks), an amount equal to the Maximum Rate multiplied by the gross proceeds of sales of the business, except where a different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer on the gross sales of the entire business.

“(b) Upon every person, firm, or corporation engaged, or continuing within the county, in the business of conducting, or operating, places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture show, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football, basketball, and baseball games (including athletic contests conducted by or under the auspices of any educational institution, or any athletic association thereof, or other association whether such institution or association be a denominational, state, county, or municipal institution or association or a state, county, or city school, or other institution, association, or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount equal to the Maximum Rate multiplied by the gross receipts of any such business.

“(c) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle or truck trailer or semi-trailer, an amount equal to one-fourth of the Maximum Rate multiplied by the gross proceeds of the sale of said automotive vehicle or truck trailer or semi-trailer. Where any used automotive vehicle or truck trailer or semi-trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

“(d) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount equal to three-eighths of the Maximum Rate multiplied by the gross proceeds of the sale of such machines; provided, that the term ‘machines,’ as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(e) Notwithstanding anything in this Section 3A to the contrary, all sales of tangible personal property within the corporate limits of any municipality within Tuscaloosa County shall be exempt from the special sales tax levied by this Section 3A. All sales of tangible personal property within the police jurisdiction of

a municipality within Tuscaloosa County otherwise subject to the tax imposed by this Section 3A shall be entitled to a credit against such tax equal to the amount of any sales tax paid to such municipality with respect to such sale.

"Each exemption provided for in the state sales tax statutes shall, during the period of time when such exemption shall be effective in said statutes, be applicable to the tax levied in this section; provided, that in the event of the repeal of the state sales tax statutes, as at any time amended, the exemptions effective therein immediately prior to any such repeal shall thereafter be applicable to the tax levied in this section. In addition thereto, and except as expressly enumerated hereinabove, there are hereby exempted from the tax levied in this section the gross receipts or gross proceeds of any business engaged in by any city or town in Tuscaloosa County. In the absence of any express provision herein to the contrary, all provisions and procedures with respect to the application for and issuance of licenses, the making of returns or reports, the contents of returns or reports, collection and payment of taxes, keeping of records, reporting and paying taxes with respect to sales on credit, determination of the amount of the tax due, penalties, assessments, notices, and examinations of taxpayers and their books provided for in the state sales tax statutes with respect to the tax levied in those statutes shall be applicable to the tax levied in this section, excepting however, the procedure for appeals from assessments, and such appeals shall be made as hereinafter set forth; provided however that any procedure or provisions involving the State Department of Revenue which is incorporated herein by reference to the state sales tax statutes shall be deemed to apply, with respect to the tax levied in this section, to the tax board. Every person, firm, or corporation engaged in any business upon which the tax levied in this section is imposed shall add the tax herein levied to the sales and admission price with respect to which the said tax is levied and shall collect the same from the purchaser.

"(f) The sale of school lunches sold by all public and private schools in Tuscaloosa County, Alabama, is hereby expressly exempted.

"Section 4A. Levy of Special Use Tax. Effective as of the date so specified in an ordinance adopted from time to time by the governing body of Tuscaloosa County, there shall be levied and imposed in the county, in addition to all other taxes of every kind now or hereafter imposed by law, and shall be collected as herein provided, an excise tax in the form of a use tax, in an amount to be determined by the application of the Maximum Rate as in effect on the date of adoption of the ordinance, upon the following:

"(a) The storage, use, or other consumption in the county of tangible personal property purchased at retail on or after the effective

date of this Section 4A, for storage, use or other consumption in the county at the Maximum Rate multiplied by the sales price of such property, regardless of whether the retailer who made the sale is or is not engaged in business in the county, except as provided in subsections (b) and (c) of this section.

“(b) The storage, use, or other consumption in the county of any automotive vehicle or truck trailer, and semi-trailer purchased at retail, on or after the effective date of this Section 4A, for storage, use, or other consumption in the county at the rate one-fourth of the Maximum Rate multiplied by the sales price of such automotive vehicle, truck trailer, or semi-trailer.

“(c) The storage, use, or other consumption within the county of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, purchased at retail on or after the effective date of this Section 4A, at the rate of three-eighths of the Maximum Rate of the sales price of any such machine. The term ‘machine,’ as herein used, shall include machinery which is used for mining, quarrying, compounding, or processing, or manufacturing tangible personal property, and parts of such machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(d) Notwithstanding anything in this Section 4A to the contrary, all storage, use, or other consumption of tangible personal property within the corporate limits of any municipality within Tuscaloosa County shall be exempt from the special use tax levied by this Section 4A. All storage, use, or other consumption of tangible personal property within the police jurisdiction of a municipality within Tuscaloosa County otherwise subject to the tax imposed by this Section 4A shall be entitled to a credit against such tax equal to the amount of any use tax paid to such municipality with respect to such property.

“Every person storing, using, or otherwise consuming in the county, tangible personal property purchased at retail shall be liable for the tax imposed by this section, and the liability shall not be extinguished until the tax has been paid; provided, however, that a receipt from a retailer maintaining a place of business in the county, showing that the property in question was purchased at retail from such retailer and the tax levied in Section 3A hereof has been paid with respect to the purchase at retail of such property shall be sufficient to relieve the purchaser from further liability for a tax under this section with respect to the use, storage, or consumption of such property. Each exemption provided for in the state use tax statutes shall, during the period of time when such exemption shall be effective in the statutes, be applicable to the tax levied in this section. In the event of the repeal of the state use tax statutes, the exemptions

effective therein immediately prior to any such repeal shall thereafter be applicable to the tax levied in this section. All provisions and procedures with respect to the filing of returns, collections, and payment of taxes, keeping of records, making of reports, determination of the amount of the tax due, penalties, assessments, notices, examinations of taxpayers and their books provided in the state use tax statutes, with respect to the tax levied in those statutes, shall be applicable to the tax levied in this section, excepting, however, the procedure for appeals from assessments, and such appeals shall be made as hereinafter set forth. Any procedure or provisions involving the State Department of Revenue which is incorporated herein by reference to the state use tax statutes shall be deemed to apply, with respect to the tax levied in this section, to the tax board."

Section 3. The Tax Board shall issue such rules and regulations as it deems necessary to carry out the provisions of this Act.

Section 4. The provisions of this Act are expressly made non-severable. If any part of this Act is declared invalid or unconstitutional, the entire Act shall be null and void as of the date specified in the order or decree declaring such invalidity or unconstitutionality.

Section 5. All laws or parts of law in conflict with this Act are hereby repealed.

Section 6. Except as provided in the following sentence, this Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. The amendments to Section 11 of the Act shall become effective only upon the first levy of the special sales and use tax authorized by Sections 3A and 4A of the Act.

Approved April 21, 1994

Time: 10:27 A.M.

Act No. 94-536

S. 652 – Senator deGraffenried

AN ACT

Relating to Tuscaloosa County; to provide that the county commission or other like governing body of the county shall have enumerated legislative powers; to authorize the county commission to fix and collect fees for costs incurred to implement and operate services outside the corporate limits of any municipality.

Be It Enacted by the Legislature of Alabama:

Section 1. Subject to any limitations of the Constitution of Alabama or of any law of this state, the County Commission of

Tuscaloosa County shall have the powers and authorities granted by the provisions of this act.

Section 2. (a) In addition to and supplementary of all powers possessed by or conferred upon the county, the county commission may exercise the following powers and provide the following services outside the corporate limits of any municipality:

(1) Acquire, operate and expand existing water authorities and other water distribution systems; provided, however, nothing herein shall grant the county the power or authority to treat water or operate water treatment facilities.

(2) Public housing;

(3) Libraries, archives and arts and sciences programs and facilities;

(4) Parking and Transit facilities; and

(5) Adoption codes, including building, housing, plumbing and electrical codes.

(b) Provided, however, nothing herein shall authorize the county to inhibit, limit, restrict, prohibit or impair in any manner the exercise of powers and authorities by any municipality.

(c) The County Commission is authorized and empowered to determine, fix and collect such fees and assessments outside the corporate limits of any municipality as may reasonably be required to reimburse the county commission for costs incurred to implement and operate the services enumerated in Section 2(a) hereinabove.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:28 A.M.

Act No. 94-537

S. 654 – Senator deGraffenried

AN ACT

To authorize Class IV Municipalities organized in accordance with Section 11-44B-1, et seq., Code of Alabama 1975, that maintain and operate a water and sewer

system to establish and collect an additional charge for the furnishing of such services to new customers outside its corporate limits.

Be It Enacted by the Legislature of Alabama:

Section 1. Any law to the contrary notwithstanding and in addition to any other lawful charges, fees or rates which may be imposed and collected under various state laws and municipal ordinances for water and/or sewer service, any Class IV Incorporated Municipality in this state organized pursuant to Section 11-44B-1, et seq., Code of Alabama 1975, that maintains and operates a water supply system and a sanitary sewer system shall have the power and authority to establish and collect in addition to all other fees and charges, a surcharge upon each new water and/or sewer customer of the municipality from the effective date of this act not located within the corporate limits of the municipality. Provided, however, said surcharge shall not exceed 25 percent of any such water and/or sewer customer's monthly bill for such services. Provided further, however, no such surcharge may be imposed or collected for water sales to any water works system operated by a corporation or association organized in accordance with Sections 10-4-190 to 10-4-194, inclusive, Sections 11-88-1 to 11-88-21, inclusive, Sections 11-88-40 to 11-88-111, inclusive, or Section 11-89-1 to 11-89-19, inclusive, Code of Alabama 1975, nor for water and/or sewer sales to industries located within industrial parks designated by the city council of said municipality.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:29 A.M.

Act No. 94-538

S. 655 – Senator deGraffenried

AN ACT

Relating to Tuscaloosa County; to amend Section 3 of Act No. 416 of the 1935 Special Session to provide for distribution of the net proceeds of the tax provided for in Act No. 416.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 416 is amended to read as follows:

“Section 3. All of the net proceeds of the privilege taxes collected pursuant to this act shall be distributed according to the following formula: City of Tuscaloosa, 36 percent; City of Northport, 14 percent; Tuscaloosa County, 50 percent; provided however, that in the event the distribution pursuant to the foregoing percentage of the net proceeds to the City of Tuscaloosa under this provision is less than \$600,000 annually, then an amount equal to the difference between the sum received by the City of Tuscaloosa and \$600,000 shall be paid to the City of Tuscaloosa in any such year from the share of the net proceeds otherwise to be received by Tuscaloosa County. Any fees or expenses incidental to collection of the aforesaid tax will be deducted before any distributions of pro rata net proceeds are made pursuant to this provision. The tax provided for herein shall not be increased without the written concurrence of all of the governing bodies of Tuscaloosa County, the City of Tuscaloosa, and the City of Northport.”

Section 2. This act shall become effective upon passage by the Legislature, and approval by the Governor, or upon its otherwise becoming law. The method of distribution provided for herein shall take effect on October 1, 1994.

Approved April 21, 1994

Time: 10:30 A.M.

Act No. 94-539

S. 656 – Senator deGraffenried

AN ACT

Relating to Tuscaloosa County; to amend Sections 2 and 3 of Act No. 76-594; to provide for the fire protection of such citizens of such county outside the limits of any municipality having a fire department; to provide that the primary fire fighting obligation of the municipality is to its own citizens; and to provide for the payment of a minimum rate for such fire service.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 2 and 3 of Act No. 76-594 are amended to read as follows:

“Section 2. The fire department of any municipality shall answer fire calls with the police jurisdiction of the municipality and may in its discretion answer any fire calls within the county. Provided; however, any provision hereof to the contrary not

withstanding, the primary fire fighting obligation of the municipality shall be to the citizens within the municipality's corporate limits.

"Section 3. Any municipal fire department answering a call under the provisions of this act shall be compensated at the minimum rate of five hundred dollars (\$500) per fire call. The municipality shall bill the individual for the amount of the minimum rate for a fire call which shall be due and payable within 30 days. If the individual does not pay the municipality as provided above, the county commission shall reimburse the municipality for the fire call from the fire protection fund. The bill shall then be due and payable to the county unless the individual shall appear before the county commission within 30 days and be granted relief due to inability to pay based on economic hardship. The county commission shall make a finding of fact of economic hardship before granting relief as provided above. In the event an individual fails to appear before the county commission or is not granted relief based on economic hardship, and such individual fails to make payment for a fire call at the minimum rate, the charge shall constitute a lien on the property and the property may be sold for the satisfaction of the lien in the same manner and under the same conditions that lands are sold for the satisfaction of liens for county ad valorem taxes and redemption from such sale may be effected in the same manner as is provided for by law for redemption where land is sold for non-payment of ad valorem taxes."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:31 A.M.

Act No. 94-540

S. 659 – Senator Foshee

AN ACT

Relating to any municipality in Covington County; to provide for the abatement of nuisances in the form of certain weeds or unsafe structures; to provide notices to the property owners, hearing procedures, abatement of the nuisances, the assessment of costs against the property, and for the collection of the costs.

Be It Enacted by the Legislature of Alabama:

Article I.

Section 1. Applicability.

The provisions of this act shall only apply to any municipality located in Covington County, Alabama.

Article II.

Section 1. Weeds may be declared a public nuisance and abated.

All weeds growing upon streets, sidewalks, or upon private property within any municipalities located in Covington County, Alabama, which bear seeds of a wingy or downy nature, which attain such a large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous may be declared to be a public nuisance by the governing body of the municipality and may be abated as hereinafter provided.

Section 2. Report of appropriate city official; resolution declaring a public nuisance.

The term "appropriate city official" as used in this article shall mean any city official or employee designated by the mayor or other chief executive officer of the city as the person to exercise the authority and perform the duties delegated by this article to the "appropriate city official".

The appropriate city official shall report to the city governing body whenever weeds are growing upon any street, sidewalk, or private property which constitute a nuisance. Upon receiving a report, the city governing body may declare the same to be a public nuisance and order its abatement.

Section 3. Notice to owner; contents; posting of signs.

After the passage of a resolution, the appropriate city official shall send notice of the action to the last person or persons, firm, association, or corporation last assessing the property for state taxes, by certified or registered mail to the address on file in the revenue commissioner's office to remedy the growth of weeds within a reasonable time set out in the notice, not to exceed 14 days or suffer the weeds to be abated by the city and the cost thereof assessed against the property. The mailing of the certified or registered notice, properly addressed and postage prepaid, shall constitute notice as required herein. The city shall also place a sign conspicuously on the property indicating that the city governing body has found the property to be a public nuisance because of the unlawful growth of weeds.

Section 4. Hearing.

Within the time specified in the notice, but not more than 14 days from the date the notice is given, any person, firm, or corporation, may file a written request for a hearing before the governing body of the city, together with objections to the finding by the city governing body that the weeds constitute a public nuisance. The filing of the request shall hold in abeyance any action on the finding of the city governing body until a determination thereon is made by the city governing body. The hearing shall be held not less than five nor more than 30 days after the request. In the event that no hearing is timely requested, the mayor of the city governing body shall order the weeds to be abated as hereinafter provided.

Section 5. Entry of municipal employees and agents on property to abate nuisance; abatement by private contractor.

If the nuisance on the property has not been abated within 14 days after the city governing body's resolution, the mayor of the city shall order the nuisance to be abated. The abatement may be accomplished, at the option of the city, by its own forces or by contract. For purposes of this article, compliance with the competitive bid laws shall not be required. All city employees and duly authorized agents are expressly authorized to enter private property for the purpose of abating the nuisance thereon.

Section 6. Accounting of cost of abatement.

The "appropriate city official" shall give an itemized written report to the city governing body regarding the cost of abating the nuisance. The cost of abatement shall be the actual cost the city incurs in the abatement, including administrative costs. Should the city contract for abatement, the cost shall be the actual costs the contractor charges the city for the abatement, including administrative costs the city incurs. Upon report of the costs by the appropriate city official, the governing body shall adopt a resolution confirming the costs of the reports, provided that any person, firm, or corporation having an interest in the property may be heard at the meeting concerning the fixing of the costs or the amounts thereof. The city clerk of the city shall give at least 10 days' notice of the meeting at which the fixing of the costs is to be considered by first-class mail to all entities having an interest in the property whose address and interest is determined from the revenue commissioner's records on the property or is otherwise known to the clerk.

Section 7. Cost to constitute weed liens; report to revenue commissioner; amounts to be included in tax bills; collection.

The confirmed cost of abatement shall hereinafter be referred to as a weed lien and thus made and confirmed shall constitute a weed lien on the property for the amount of the weed lien. After

confirmation of the reports, a copy shall be turned over to the Revenue Commissioner of Covington County who, under the optional method of taxation, is charged with the collection of the city's municipal taxes pursuant to Sections 11-51-40 through 11-51-74, Code of Alabama 1975. Whereupon it shall be the duty of the county revenue commissioner to add the amounts of any weed lien to the next regular bills for taxes levied against the respective lots and parcels of land, and thereafter any weed liens shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency. The county revenue commissioner shall retain 10 percent of the amount of each weed lien collected and remit the remainder to the municipality. The amount retained by the revenue commissioner shall be used for operational purposes.

Section 8. Article cumulative in nature.

This article shall be cumulative in its nature, and in addition to any and all power and authority which the city may have under any other law.

Article III.

Section 1. Demolition of unsafe structures by any municipalities located in Covington County, Alabama.

Any municipality located in Covington County, Alabama, shall have authority, after notice provided herein, to move or demolish buildings and structures, or parts of buildings and structures, party walls and foundations, when the same are found by the governing body of the city to be unsafe to the extent of being a public nuisance from any cause.

Section 2. Meaning of "appropriate city official"; duties; notice of unsafe or dangerous condition.

The term "appropriate city official" as used in the article shall mean any city building official or deputy and any other city official or city employee designated by the mayor or other chief executive officer of the city as the person to exercise the authority and perform the duties delegated by this article to "appropriate city official." Whenever the appropriate city official of the city shall find that any building, structure, part of building or structure, party wall or foundation situated in any city is unsafe to the extent that it is a public nuisance, the official shall report the findings to the city governing body. At that time the city governing body shall determine whether the building, structure, part of building or structure, party wall, or foundation constitutes a public nuisance. Should the city governing body find by resolution that the building,

structure, part of building or structure, party wall, or foundation is a public nuisance, then the appropriate city official shall give the person or persons, firm, association, or corporation last assessing the property for state taxes, by certified or registered mail to the address on file in the revenue commissioner's office, notice to remedy the unsafe or dangerous condition of the building or structure, or to demolish the same, within a reasonable time set out in the notice, which time shall not be less than 30 days unless an extension is granted by the appropriate city official or suffer the building or structure to be demolished by the city and the cost thereof assessed against the property. The mailing of the certified or registered notice, properly addressed and postage prepaid, shall constitute notice as required herein. The city shall place a sign or placard within 15 feet of the entrance of the building or structure, indicating that the city had declared the building or structure to be a public nuisance; however, if there is no entrance in which to place the sign or placard, then the sign or placard may be posted at any location upon the building or structure.

Section 3. Hearing procedure; order; appeal.

Within the time specified in the notice, but not more than 30 days from the date the notice is given, any person, firm, or corporation having an interest in the building or structure may file a written request for a hearing before the governing body of the city, together with the objections to the finding by the city governing body that the building or structure is unsafe to the extent of becoming a public nuisance. The filing of the request shall hold in abeyance any action on the finding of the city governing body until a determination thereon is made by the city governing body. The hearing shall be held not less than five nor more than 30 days after the request. In the event that no hearing is timely requested, the governing body shall order the building or structure to be demolished. The demolition may be accomplished, at the option of the city, by the use of its own forces or it may provide by contract for the demolition. For purposes of this article, compliance with the competitive bid laws are not required. The city shall have authority to sell or otherwise dispose of salvaged materials resulting from the demolition.

Any person aggrieved by the decision of the governing body at the hearing may, within 10 days thereafter, appeal to the circuit court upon filing with the clerk of the court notice of appeal and bond for security of costs in the form and amount to be approved by the circuit clerk. Upon filing of the notice of appeal and approval of the bond, the clerk of the court shall serve a copy of the notice of appeal on the clerk of the city and the appeal shall be docketed in the court, and shall be a preferred case therein. The

clerk of the city shall, upon receiving the notice, file with the clerk of the court a copy of the findings and determination of the governing body in proceedings, and trials shall be held without jury upon the determination of the governing body that the building or structure is unsafe to the extent that it is a public nuisance.

Section 4. Report of cost of demolition; adoption of resolution fixing costs; proceeds of sale of salvaged materials; objections to findings of cost; notice.

Upon demolition of the building or structure, the appropriate city official shall make an itemized written report to the governing body of the cost thereof. The cost of the demolition shall be the actual cost the city incurs in the demolition should the city use its own forces, including administrative costs the city incurs in abating the nuisance. Should the city contract for demolition, the cost shall be the actual cost the contractor charges the city for the demolition, including administrative costs the city incurs in abating the nuisance. Upon report of the costs by the appropriate city official, the governing body shall adopt a resolution fixing the costs which it finds were incurred in the demolition and assessing the same against the property; provided, however, the proceeds of any moneys received from the use of salvaged materials from the building or structure shall be used or applied against the cost of the demolition; and provided, further, then any person, firm, or corporation having an interest in the property may be heard at the meeting concerning the fixing of the costs or the amounts thereof. The city clerk of the city shall give at least 10 days' notice of the meeting at which the fixing of the costs is to be considered by first-class mail to all entities having an interest in the property whose address and interest is determined from the revenue commissioner's records on the property or is otherwise known to the clerk. The fixing of costs by the governing body shall constitute a special assessment against the lot or lots, parcel or parcels of land upon which the building or structure was located, and thus made and confirmed shall constitute lien on the property for the amount of the assessment. The lien shall be superior to all other liens on the property except liens for taxes, and shall continue in force until paid. A certified copy of the resolution shall be filed in the office of the Judge of Probate of Covington County. Upon filing, the revenue commissioner of the county shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax and remit the amount to the city. The county revenue commissioner shall retain 10 percent of the amount of each lien collected to be used for operational purposes.

Section 5. Assessment of costs; sale and redemption of lots.

The city shall have the power to assess the costs authorized herein against any lot or lots, parcel or parcels of land purchased

by the State of Alabama at any sale for nonpayment of taxes, and where any assessment is made against the lot or lots, parcel or parcels of the land, a subsequent redemption thereof by any person authorized to redeem, or sale thereof by the state, shall not operate to discharge, or in any manner affect the lien of the city for the assessment, but any redemptioner or purchaser at any sale by the state of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to sale to the state for the nonpayment of taxes, shall take the same subject to the assessment. The assessment shall then be added to the tax bill of the property, collected as a tax, and remitted to the city.

Section 6. Payment of assessments.

Payment of any assessment, or if delinquent, the collection of the assessment, shall be made in the manner and as provided for the payment of municipal improvement assessments as provided for the payment of and delinquent collection of municipal improvement assessments pursuant to Article 1 (commencing with Section 11-48-1) of Chapter 2 of Title 11, Code of Alabama 1975. The city may, in the latter notice, elect to have the revenue commissioner collect the assessment by adding the same to the tax bill; upon the election the revenue commissioner shall collect the assessment using all methods available for collecting ad valorem taxes. Ten percent of the amount of each assessment collected by the county revenue commissioner shall be retained by the county revenue commissioner and used for operational purposes.

Section 7. Article cumulative in nature.

This article shall be cumulative in its nature, and in addition to any and all power and authority which any city may have under any other law.

Article IV.

Section 1. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:32 A.M.

Act No. 94-541

H. 751 – Rep. Harper

AN ACT

To provide a supplemental appropriation to the State Industrial Development Authority from the State Industrial Development Authority Incentive Program Fund for the fiscal years ending September 30, 1994, and September 30, 1995, for the Industrial Development Program.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated the sum of two hundred thousand dollars (\$200,000) for the fiscal year ended September 30, 1994, and three hundred thousand dollars (\$300,000) for the fiscal year ended September 30, 1995, from the State Industrial Development Authority Incentive Program Fund to the State Industrial Development Authority for the Industrial Development Program.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:40 A.M.

Act No. 94-542

H. 84 – Rep. Hawkins

AN ACT

To make a supplemental appropriation from the Physical Therapy Fund in the State Treasury to the Board of Physical Therapy for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. There is appropriated from the Physical Therapist Fund in the State Treasury to the Board of Physical Therapy the sum of twenty thousand dollars (\$20,000) for the fiscal year ending September 30, 1994. The appropriation made in this section is in addition to any and all other funds heretofore or hereafter appropriated to the Board of Physical Therapy.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:41 A.M.

Act No. 94-543

H. 320 – Reps. Turnham, Smith (C)

AN ACT

Relating to the use of explosives; to appropriate from the State Fire Marshal's Fund in the State General Fund, the sum of two hundred twenty-five thousand dollars (\$225,000) in the fiscal year commencing October 1, 1993, to the Department of Insurance for use by the State Fire Marshal for expenditure in the administration and enforcement of the Alabama Explosives Safety Act of 1993, and to provide that these funds shall be supplemental to any funds appropriated to the Department of Insurance or the State Fire Marshal.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) There is hereby appropriated from the State Fire Marshal's Fund in the General Fund of the State Treasury for the fiscal year commencing October 1, 1993, the sum of two hundred twenty-five thousand dollars (\$225,000) to the Department of Insurance.

(b) The two hundred twenty-five thousand dollars (\$225,000) appropriated shall be allocated to the State Fire Marshal's Office for the purpose of administering and enforcing the Alabama Explosives Safety Act of 1993.

(c) The funds appropriated by this act are supplemental to any other funds appropriated to the Department of Insurance and the State Fire Marshal.

Section 2. If any part, section, clause, provision, or portion of this Act herein be held unconstitutional or invalid, it shall not affect any other part, section, clause, provision, or portion of this Act, not in and of itself unconstitutional.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:42 A.M.

Act No. 94-544

H. 192 – Rep. Harper

AN ACT

To amend the General Fund appropriation bill, Act 93-771 of the 1993 Regular Session which makes appropriations for the ordinary expenses of the executive, legislative and judicial agencies of the State, for other functions of government, for debt service, and for capital outlay for the fiscal year ending September 30, 1994, in order to transfer funds between programs under the Farmers' Market Authority.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2C. 48. of Act 93-771 of the 1993 Regular Session is hereby amended to read as follows:

**"48. FARMERS' MARKET
AUTHORITY:**

(a) Agricultural Development Services Program	375,121
(b) Capital Outlay Program....	424,362

SOURCE OF FUNDS:

(1) State General Fund	192,718		
(2) State General Fund- Capital Outlay.....	424,362		
(3) Farmers' Market Author- ity Fund		182,403	
Total Farmers' Market Author- ity	617,080	182,403	799,384"

Section 2. If any section, paragraph, sentence, clause, provision or portion of this act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed and shall not affect the parts which remain.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:43 A.M.

Act No. 94-545

H. 92 – Rep. Freeman

AN ACT

To make a supplemental appropriation from the Alcoholic Beverage Control Board Fund in the State Treasury to the Alcoholic Beverage Control Board for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. There is appropriated from the Alcoholic Beverage Control Board Fund in the State Treasury to the Alcoholic Beverage Control Board the sum of one million two hundred thousand dollars (\$1,200,000) for the fiscal year ending September 30, 1994. The appropriation made in this section is in addition to any and all other funds heretofore or hereafter appropriated to the Alcoholic Beverage Control Board.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:45 A.M.

Act No. 94-546

H. 735 – Rep. Clark (J)

AN ACT

Relating to Barbour County; to repeal Act No. 87-496, 1987 Regular Session, relating to solid waste disposal fees.

Be It Enacted by the Legislature of Alabama:

Section Act No. 87-496, 1987 Regular Session, is hereby repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:46 A.M.

Act No. 94-547

H. 881 – Rep. Knight (A)

AN ACT

To amend Section 3 of Act No. 79-524, H. 607, 1979 Regular Session (Acts 1979, p. 935), relating to the establishment of a personnel board for employees of county law enforcement officers in Shelby County, to provide that the position of operations manager shall not be subject to the jurisdiction of the Shelby County Law Enforcement Personnel Board, and that the operations manager shall be appointed and serve at the pleasure of the sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 79-524, H. 607, 1979 Regular Session (Acts 1979, p. 935), is amended to read as follows:

“Section 3. This act shall apply to all law enforcement employees of Shelby County but shall not apply to the following persons: (a) elective officers of the county or any municipality therein; (b) members of county or municipal appointive boards, commissions, and committees; (c) all employees of county or municipal boards of education engaged in the profession of teaching or in supervising teaching in the public schools; (d) the judge of any court; (e) any employee of the United States government or any agency thereof; (f) any employee of the State of Alabama or any departments therein; (g) the chief deputy in the sheriff's department; and (h) the operations manager of the Shelby County Sheriff's Department who shall be appointed by the sheriff in the unclassified service of the county and serve at the pleasure of the sheriff.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:47 A.M.

Act No. 94-548

H. 885 – Rep. Campbell

AN ACT

Relating to Calhoun County; to provide for the assessment of additional court costs in the municipal courts of the county for the purpose of funding the county law library.

Be It Enacted by the Legislature of Alabama:

Section 1. In Calhoun County, in addition to any costs and charges fixed by law upon conviction for violations of municipal ordinances in municipalities having a municipal court, there shall be assessed in each case an amount of additional court costs for law libraries in the same amount as the amount of court costs for law libraries assessed in each case in circuit court.

Section 2. The court costs for law libraries provided by this act shall be collected in the same manner as other court costs in municipal court, shall be paid into the county general fund on a monthly basis, and shall be used solely for the purpose of funding the county law library in Calhoun County.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. The provisions of this act are supplemental and shall not be construed to repeal any law not in direct conflict with this act.

Section 5. The provisions of this act shall be effective the first day of the second month following its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 21, 1994

Time: 10:48 A.M.

Act No. 94-549

H. 798 – Rep. Campbell

AN ACT

To amend Act No. 79-157, S. 222, 1979 Regular Session, which said act establishes a policemen's and firemen's retirement fund for the City of Anniston, so as to authorize additional investments of the retirement fund by the board of trustees of the policemen's and firemen's retirement fund, and to provide further for a one time increase in benefits presently being paid to certain surviving spouses or dependents of deceased members of the fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 6 of Act No. 79-157, S. 222, 1979 Regular Session, is amended to read as follows:

“Section 6. The board, at any time after considering the probable demands upon the fund in the near future, may determine what portion thereof may be withdrawn safely for investment for revenue purposes. Having determined what portion thereof shall be withdrawn for the aforementioned purpose, the board shall determine in what manner such investment shall be made, and all proceedings of the board relating thereto shall be entered at length upon its records. The board shall be authorized to invest the retirement funds by the purchase of interest bearing bonds of the United States of America, or the State of Alabama, or any bonds lawfully issued by the City of Anniston, or any bond, stock, security, investment, or deposit which is guaranteed by the United States Government or any of its instrumentalities; provided, however, not over 25 percent of the fund may be invested in the bonds of the city.

In addition to the foregoing, the board may invest up to 50% of the fund in common or preferred stocks traded on any major U. S.

stock exchange or through the NASDAQ system and global market; U. S. Government or agency issued bonds; corporate bonds rated A or better at the time of purchase; commercial paper rated A1-P1. At no time shall less than 50 percent of the fund be invested in fixed income investments."

Section 2. Notwithstanding any provision contained in Act No. 79-157, S. 222, the board of trustees of the fund shall be empowered for a period of one year from the effective date of this act to grant an increase in benefits being paid to any surviving spouse or dependent of a deceased fund member who, as of the effective date of this act, is receiving benefits in an amount less than \$500.00, which said increase shall be the equivalent of \$2.00 per month times the number of years of service used in the computation of benefits for the surviving spouse or dependent of such deceased member of the fund. The board may exercise its authority granted hereunder only once, and should it choose to do so, the board must grant the increase authorized hereby to the entire class of surviving spouses or dependents who would be eligible for such increase. Once an increase is granted under the terms of this section, the board shall have no further authority to grant the additional increase except as otherwise provided in the act.

Section 3. This act shall become effective on the first day of the month next succeeding its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:49 A.M.

Act No. 94-550

H. 800 – Reps. Blakeney, Black (L)

AN ACT

Relating to Choctaw County; authorizing the county commission to levy an additional one cent sales and use tax; providing for the collection, distribution, and use of the proceeds of the tax to fund the operation of ambulance and emergency medical services; prescribing penalties and fixing punishment for violation of this act; and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Choctaw County.

Section 2. As used in this act, state sales and use tax means the tax imposed by the state sales and use tax statutes, including, but not limited to, Sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

Section 3. The county commission may levy, in addition to all other taxes, including, but not limited to, municipal gross receipts license taxes, a one cent privilege license tax against gross sales or gross receipts. Notwithstanding the foregoing, the additional privilege license tax imposed pursuant to this act shall not apply to any person, firm, or corporation engaged in the business of selling machines at retail used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, and any parts of the machines or any automobile, vehicle, truck, truck trailer, semi-trailer, house trailer, or farm machinery.

The gross receipts of any business and the gross proceeds of all sales which are presently exempt under the state sales and use tax statutes are exempt from the tax authorized by this act.

Section 4. The tax authorized to be levied by the county commission pursuant to this act shall be collected by the Department of Revenue or otherwise as provided by resolution of the county commission at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department a report in the form prescribed by the department. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax authorized to be levied pursuant to this act, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax authorized to be levied pursuant to this act may defer reporting credit sales until after their collection, and in the event the person defers reporting them, the person shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the tax due at the time of filing the report. All reports filed with the department under this section shall be available for inspection by the county commission, or its designee.

Section 5. Each person engaging or continuing in a business subject to the tax authorized to be levied pursuant to this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer because of the sale or admission. It shall be unlawful for any person subject to the tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount required to be added to the sale or admission price. It shall be unlawful for any person subject to the tax authorized to be levied pursuant to this act to refund or offer to refund all or any part of the amount collected or to absorb

or advertise directly or indirectly the absorption or refund of any portion of the tax.

Section 6. The tax authorized to be levied pursuant to this act shall constitute a debt due the county. The tax, together with any interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom the tax is due or who is required to collect the tax. The department shall collect the tax, enforce this act, and have and exercise all rights and remedies that the state or the department has for collection of the state sales and use tax. The department may employ special counsel as is necessary to enforce collection of the tax authorized to be levied pursuant to this act and to enforce this act. The department shall pay the special counsel any fees it deems necessary and proper from the proceeds of the tax collected by it for the county.

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax authorized to be levied pursuant to this act. The Commissioner of the Department of Revenue and the department shall have and exercise the same powers, duties, and obligations with respect to the tax authorized to be levied pursuant to this act that are imposed on the commissioner and department by the state sales and use tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the tax authorized to be levied pursuant to this act, and to the administration and enforcement of this act, are incorporated by reference and made a part of this act as if fully set forth herein.

Section 8. The department shall charge the county for collecting the tax authorized to be levied pursuant to this act in an amount or percentage of total collections as may be agreed upon by the commissioner and the county commission. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due the county for that month. The commissioner shall pay into the State Treasury all amounts collected under this act, as the tax is received by the department on or before the first day of each successive month. The commissioner shall certify to the State Comptroller the amount collected and paid into the State Treasury for the benefit of the county during the month immediately preceding the certification. The State Comptroller shall issue a warrant

each month payable to the county treasurer in an amount equal to the certified amount which shall be paid into the county general fund to be used to fund the operation of ambulance and emergency medical services in the county to be under the control and supervision of the Board of Directors of the Choctaw County Emergency Medical Services, Incorporated.

Section 9. This act shall be inoperative and void unless it is approved by a majority of the qualified electors of the county who vote thereon at the next general, primary, or special election in the county. The election shall be held and conducted as are elections on constitutional amendments on a date determined by the county commission. Notice of the election shall be given by the judge of probate and shall be published once a week for three successive weeks before the day of the election. On the ballots used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law authorizing the county commission to levy a one cent sales and use tax to be used to fund the operation of ambulance and emergency medical services in the county to be under the control and supervision of the Board of Directors of the Choctaw County Emergency Medical Services Incorporated?
Yes ____ No ____.”

If a majority of the votes cast at the election are affirmative votes, this act shall have full force and effect on the first day of the second month following the election. If a majority of the votes cast are negative votes, this act shall have no further effect. The judge of probate shall certify the results of the election to the Secretary of State.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:50 A.M.

Act No. 94-551

H. 778 – Rep. Carter

AN ACT

To fix the fee for the issuance of pistol permits in Limestone County, to provide for the deposit of such fees in a fund known as the Sheriff's Law Enforcement Fund, and to provide for the use of such funds and an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. In Limestone County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Section 13A-11-75, Code of Alabama 1975, shall be fifteen dollars (\$15) which shall be collected by the sheriff.

Section 2. Any and all monies collected under Section 1 of this act shall be deposited by the Sheriff of Limestone County in any bank located in Limestone County selected by the sheriff, into a fund known as the Sheriff's Law Enforcement Fund and shall be audited by the State Examiners of Public Accounts.

Section 3. The Sheriff's Law Enforcement Fund as provided in Section 2 of this act shall be drawn upon by the Sheriff of Limestone County or his appointed agent and shall be used exclusively for law enforcement purposes in the public's interest and in the discharge of the sheriff's office as the sheriff sees fit.

Section 4. The establishment of the Sheriff's Law Enforcement Fund as provided in the act and the use of such funds shall in no way diminish or take the place of any other imbursement or other resource of income established for the sheriff or the operation of his office.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:51 A.M.

Act No. 94-552

H. 896 – Rep. Melton

AN ACT

Relating to Tuscaloosa County; to amend Section 2 of Act No. 91-173, H. 454 of the 1991 Regular Session (Acts 1991, p. 232) to further prescribe the compensation of the chief deputy sheriff and provide for the payment thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 91-173, H. 454 of the 1991 Regular Session (Acts 1991, p. 232) is amended to read as follows:

“Section 2. The compensation of the chief deputy sheriff shall be a salary, payable out of the county treasury, in the same manner and at the same time as the salaries of other employees of the county are paid. The compensation of the chief deputy sheriff shall be equal to step 18 for the rank of captain in the Department of Public Safety. The chief deputy sheriff shall receive all of the same benefits as other employees in the classified service of the county.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:52 A.M.

Act No. 94-553

H. 898 – Rep. Clark (J)

AN ACT

Relating to Barbour County: Fixing the fee for an issuance of a pistol permit by the Sheriff and providing for the disposition and use of the proceeds therefrom; and repealing all laws or parts of laws in conflict with the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. In Barbour County the fee for issuance of a permit to carry a pistol in a vehicle or conceal on or about the person as provided in Section 13A-11-75, Code of Alabama 1975, as amended shall be \$15.00 which shall be collected by the Sheriff, or his agent.

Section 2. Nine dollars (\$9.00) of each fee collected under Section 1 of this act shall be paid to the County Treasury which shall be used for the specific purpose of motor vehicle purchases for the Barbour County Sheriff's Department. The remaining six dollars (\$6.00) of each fee shall be deposited by the Sheriff of Barbour County, or his agent, in any bank located in Barbour County into a fund known as the Sheriff's Fund.

Section 3. The Sheriff's Fund provided for in Section 2 of this act shall be drawn upon by the Sheriff of Barbour County or his appointed agent and shall be used exclusively for law enforcement purposes and in the discharge of the Sheriff's office as he sees fit.

Section 4. The establishment of the Sheriff's Fund as provided in this act and the use of such funds shall in no way diminish

or take the place of any other imbursement or other source of income established for the Sheriff or the operation of his office.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with the provisions of this act are hereby repealed only to the extent they are in direct conflict with the provisions of this act.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:53 A.M.

Act No. 94-554

H. 902 – Rep. Melton

AN ACT

To amend certain portions of Act No. 56, adopted in the 1953 Regular Session of the Alabama Legislature, which authorized the levy of certain sales and use taxes in Tuscaloosa County and the creation of the Tuscaloosa County Special Tax Board, to authorize the Tax Board, but only upon the direction of the governing body of Tuscaloosa County, to levy and impose, from time to time, an additional sales and use tax to equalize the rate of sales and use taxes levied in the County to the highest rate of sales or use tax then being levied by the City of Tuscaloosa or by the City of Northport; and to provide that the proceeds from any such additional sales and use tax shall be allocated entirely to the Tuscaloosa County Commission for general county purposes. Also to amend the distribution formula, subject to the levy of the additional sales and use tax as directed by the Tuscaloosa County Commission, to reduce the share of revenue from the sales and use tax presently levied by the Tax Board and distributed to the City of Tuscaloosa, and to correspondingly increase the share distributed to Tuscaloosa County. Also to provide certain technical corrections to Act No. 56, grant regulatory authority to the Tax Board, and repeal inconsistent provisions.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1, 2, 3, 10 and 11 of Act No. 56, 1953 Regular Session, as heretofore amended, which levies a sales and use tax in Tuscaloosa County, are hereby amended to read as follows:

“Section 1. Definitions. The following words and phrases shall have the following meanings:

“(1) ‘The state’ means the State of Alabama.

“(2) ‘The county’ means Tuscaloosa County in the state.

“(3) ‘The city’ means the City of Tuscaloosa in the state.

“(4) ‘The county board of education’ means the board of education of Tuscaloosa County, Alabama.

“(5) ‘The hospital authority’ means the DCH Regional Health Care Authority.

“(6) ‘The tax board’ means the Tuscaloosa County Special Tax Board created in Section 9 of this act.

“(7) ‘This Act’ or ‘this act’ means Act No. 56, 1953 Regular Session, as heretofore and as hereby amended.

“(8) ‘State sales tax statutes’ means the provisions of Article 1, Chapter 23, Title 40, Code of Alabama 1975, as amended from time to time.

“(9) ‘State use tax statutes’ means the provisions of Article 2, Chapter 23, Title 40, Code of Alabama 1975, as amended from time to time.

“(10) ‘Quarterly period’ means each period of three calendar months commencing on each January 1, April 1, July 1, and October 1.

“(11) Pronouns include all genders.

“(12) Those words and phrases used in Sections 3 and 3A of this act that are defined in the state sales tax statutes shall have the meanings respectively given them in the state sales tax statutes. Those words and phrases used in Sections 4 and 4A of this act that are defined in the state use tax statutes shall have the meanings respectively given them in the state use tax statutes.

“(13) ‘Maximum Rate’:

“(a) For purposes of Sections 3A and 4A of this Act, ‘Maximum Rate’ means a rate equal to the highest rate of sales or use tax now or hereafter levied by the City of Tuscaloosa or by the City of Northport within their respective corporate limits, whichever is greater, at the date of enactment of this amendatory act or at any time thereafter, provided, however, that the Maximum Rate shall not decrease as a result of a decrease in the rate of sales or use tax levied by the City of Tuscaloosa or by the City of Northport.

“(b) All references in this Act to the ‘police jurisdiction’ or ‘corporate limits’ of a municipality shall mean and refer to the municipality’s police jurisdiction or corporate limits, respectively, as now or hereafter constituted.

“Section 2. Legislative Intent. It is the intention of the legislature by the passage of this act to impose a sales tax and a use

tax in the county which, in general, but with certain exceptions and differences herein specifically provided for, parallel the provisions of and are similar to the taxes levied by the state sales tax statutes and the state use tax statutes, respectively; provided, however, that the rates of the taxes herein levied shall be as set forth herein. In order to facilitate administration of this act, and to permit the filing of returns by taxpayers to be made on the same or similar forms as those required under the state sales tax statutes and the state use tax statutes, the procedures of those statutes are incorporated herein by reference, and the taxes herein levied are made subject to all exemptions provided for in the said statutes and that may be hereafter provided for in amendments of the said statutes. The purpose of the levy herein made is to provide funds for certain school and charitable purposes in the county, as well as provide funds for general county and municipal purposes, as hereinafter set forth in detail.

“Section 3. Levy of Sales Tax. There is hereby levied in the county, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

“(a) Upon every person, firm, or corporation (including the University of Alabama, and all other institutions of higher learning in the county, whether such institutions be denominational, state, county, or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or continuing within the county, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stocks), an amount equal to two percent of the gross proceeds of sales of the business, except where a different amount is expressly provided herein. Any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept to show separately the gross proceeds of sales of each business, and when the books are not so kept, shall pay the tax as a retailer on the gross sales of the entire business.

“(b) Upon every person, firm or corporation engaged, or continuing within the county, in the business of conducting, or operating, places of amusement or entertainment, billiard and poolrooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prizefights,

boxing and wrestling exhibitions, football, basketball, and baseball games (including athletic contests conducted by or under the auspices of any educational institution, or any athletic association thereof, or other association whether the institution or association is a denominational, state, county, or municipal institution, or association, or a state, county, or city school or other institution, association, or school), skating rinks, racetracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount equal to two percent of the gross receipts of any such business.

“(c) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle or truck trailer or semitrailer, an amount equal to one-half of one percent of the gross proceeds of the sale of the automotive vehicle or truck trailer or semitrailer. Where any used automotive vehicle or truck trailer or semitrailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

“(d) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property an amount equal to three-quarters of one percent of the gross proceeds of the sale of such machines. The term ‘machines,’ as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“Each exemption provided for in the state sales tax statutes, shall, during the period of time when such exemption shall be effective in the statutes, be applicable to the tax levied in this section. In the event of the repeal of the state sales tax statutes, the exemptions effective therein immediately prior to any repeal shall thereafter be applicable to the tax levied in this section. In addition thereto, and except as expressly enumerated hereinabove, there are hereby exempted from the tax levied in this section the gross receipts or gross proceeds of any business engaged in by any city or town in Tuscaloosa County. In the absence of any express provision herein to the contrary, all provisions and procedures

with respect to the application for and issuance of licenses, the making of returns or reports, the contents of returns or reports, collection and payment of taxes, keeping of records, reporting and paying taxes with respect to sales on credit, determination of the amount of the tax due, penalties, assessments, notices, and examinations of taxpayers and their books provided for in the state sales tax statutes with respect to the tax levied in those statutes shall be applicable to the tax levied in this section, excepting however, the procedure for appeals from assessments, and such appeals shall be made as hereinafter set forth. Any procedure or provisions involving the State Department of Revenue which is incorporated herein by reference to the state sales tax statutes shall be deemed to apply, with respect to the tax levied in this section, to the tax board. Every person, firm, or corporation engaged in any business upon which the tax levied to the sales and admission price with respect to which the said tax is levied and shall collect the same from the purchaser.

“(e) The sale of school lunches sold by all public and private schools in Tuscaloosa County, Alabama, is expressly exempted.”

“Section 10. Appeals from Assessments. Whenever any taxpayer who has duly appeared and protested a final assessment made by the tax board is dissatisfied with the assessment finally made, he may appeal from said final assessment to the Circuit Court of the county, sitting in equity, by filing notices of appeals with the secretary of the tax board and with the register of said court within thirty (30) days from the date of said final assessment, and in addition thereto by giving bond conditioned to pay all costs, such bond to be filed with and approved by the register of said court. All provisions of Chapter 2A of Title 40 of the Code of Alabama 1975, as amended from time to time, pertaining to payment of an assessment unless a supersedeas bond shall be filed and approved, the burden of proof, and the procedure to be followed in appeals from the judgment of the said court, shall be applicable to appeals from final assessments made hereunder, and the tax board shall have with respect to such appeals all the rights conferred on and the functions assigned to the Department of Revenue by said Chapter 2A.

“Section 11. Disposition of Revenues. Any and all expenses, including (but without limitation to) salaries, office rent, and other expenses that may be necessary to provide for the collection and distribution of the taxes herein levied as may be authorized or approved by the tax board, shall be deducted by the tax board and paid out of the proceeds from said collections before any distribution of said proceeds. Provided, however, that under no circumstances shall the funds held or collected pursuant to Sections 3A

and 4A of this Act be commingled with other funds held or collected by the tax board, but shall be separately invested and accounted for and all said expenses shall be charged against the proceeds distributed to each recipient in proportion to the amount of proceeds distributed. After deduction of said expenses, the tax board shall distribute the remaining proceeds from the said taxes as follows:

“(a) One hundred per cent (100%) of the proceeds held or collected pursuant to Sections 3A and 4A of this Act shall be paid to the governing body of Tuscaloosa County for general county purposes;

“(b) The amounts collected under Sections 3 and 4 of this Act are hereinafter referred to as ‘Residual Proceeds.’ Twenty-five per cent (25%) of the Residual Proceeds shall be paid to the City of Tuscaloosa for general municipal purposes; provided, however, there shall be a guaranteed minimum annual payment from the Residual Proceeds to the City of Tuscaloosa in an amount equal to the lesser of:

“(1) \$6.9 million, or

“(2) Thirty-two and one-half percent (32 1/2%) of said proceeds.

“The difference between the share of said proceeds otherwise distributable to the City of Tuscaloosa and the amount owed to it as the guaranteed minimum annual payment shall be derived from that portion of the Residual Proceeds otherwise distributable to Tuscaloosa County. Notwithstanding the preceding sentence, however, at such time as twenty-five per cent (25%) of the annual Residual Proceeds first equals or exceeds \$6.9 million, then the City of Tuscaloosa shall thereupon and thereafter receive the actual amount of the distribution [twenty-five percent (25%) of said proceeds] and the guaranteed minimum payment shall no longer be applicable. For all subsequent years, the City of Tuscaloosa will receive twenty-five percent (25%) of said proceeds regardless of the dollar amount of said distribution.

“(c) Five percent (5%) of the Residual Proceeds remaining shall be paid to the City of Northport for general municipal purposes;

“(d) Subject to subsection (b) above, twenty percent (20%) of the Residual Proceeds remaining shall be paid to Tuscaloosa County for general county purposes;

“(e) Ten per cent (10%) of the Residual Proceeds remaining shall be paid to the hospital board, which shall use said proceeds solely to defray all or a part of the costs of any hospital operated by the hospital board for hospital services furnished to charity patients who are residents of the county, including any municipality therein;

“(f) Twenty per cent (20%) of the Residual Proceeds remaining shall be paid to the county board of education, which shall use said

proceeds solely for public school purposes in the county, including, but without limitation to, payment of any bonds, warrants, notes and other obligations of the county board of education which have heretofore or may hereafter be issued for any public school purposes, together with the interest thereon and the necessary expenses in connection with the issuance thereof, acquiring, providing, or constructing school houses and related buildings necessary or convenient for public school purposes, and equipping, furnishing, maintaining, repairing or replacing any such buildings and acquiring sites therefor; and

“(g) Twenty per cent (20%) of the Residual Proceeds remaining shall be paid to the city, which shall use said proceeds solely for public school purposes in the city, including, but without limitation to, payment of any bonds, warrants, notes and other obligations of the city which have heretofore or may hereafter be issued for any public school purposes, together with the interest thereon and the necessary expenses in connection with the issuance thereof, acquiring, providing, or constructing schoolhouses and related buildings necessary or convenient for public school purposes, and equipping, furnishing, maintaining, repairing or replacing any such building and acquiring sites therefor.

“The proceeds for which distribution is provided in subsections (a), (b), (c), (d), (e), (f) and (g) of this section shall be paid over to the beneficiaries thereof, respectively, on or before the tenth day of the calendar month next succeeding the calendar month in which said proceeds shall have been received by the tax board. The tax board is hereby authorized to retain on hand at all times as a revolving or contingent fund for payment of its expenses, as provided for in section 9(c) of this act, such amount of said tax proceeds as it deems expedient; provided, that as disbursements are made from said revolving or contingent fund, the tax board shall have the power, immediately or at such time as it deems convenient, to restore the moneys so disbursed out of the proceeds from the taxes herein levied; and provided, further, that the said revolving or contingent fund shall not at any time exceed ten per cent (10%) of the collections made under this act during the then preceding calendar month.”

Section 2. The following sections are hereby added to Act No. 56, 1953 Regular Session, as heretofore amended, with new Section 3A to follow existing Section 3 of the Act, and new Section 4A to follow existing Section 4 of the Act, to read as follows:

“Section 3A. Levy of Special Sales Tax. Effective as of the date so specified in an ordinance adopted from time to time by the governing body of Tuscaloosa County directing the levy of a special sales tax as herein provided, there shall be levied in the county, in addition to all other taxes of every kind now or hereafter imposed

by law, and shall be collected as herein provided, a privilege or license tax in the form of a sales tax against the person or on account of the business activities and in the amount to be determined by the application of the Maximum Rate (as defined in Section 1 of this Act) as in effect on the date of adoption of the ordinance against gross sales, or gross receipts, as the case may be, as follows:

“(a) Upon every person, firm, or corporation (including the University of Alabama, and all other institutions of higher learning in the county, whether such institutions be denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or continuing within the county, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stocks), an amount equal to the Maximum Rate multiplied by the gross proceeds of sales of the business, except where a different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer on the gross sales of the entire business.

“(b) Upon every person, firm, or corporation engaged, or continuing within the county, in the business of conducting, or operating, places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture show, vaudevilles, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football, basketball, and baseball games (including athletic contests conducted by or under the auspices of any educational institution, or any athletic association thereof, or other association whether such institution or association be a denominational, state, county, or municipal institution or association or a state, county, or city school, or other institution, association, or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount equal to the Maximum Rate multiplied by the gross receipts of any such business.

“(c) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail any automotive

vehicle or truck trailer or semi-trailer, an amount equal to one-fourth of the Maximum Rate multiplied by the gross proceeds of the sale of said automotive vehicle or truck trailer or semi-trailer. Where any used automotive vehicle or truck trailer or semi-trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

“(d) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount equal to three-eighths of the Maximum Rate multiplied by the gross proceeds of the sale of such machines; provided, that the term ‘machines,’ as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(e) Notwithstanding anything in this Section 3A to the contrary, all sales of tangible personal property within the corporate limits of any municipality within Tuscaloosa County shall be exempt from the special sales tax levied by this Section 3A. All sales of tangible personal property within the police jurisdiction of a municipality within Tuscaloosa County otherwise subject to the tax imposed by this Section 3A shall be entitled to a credit against such tax equal to the amount of any sales tax paid to such municipality with respect to such sale.

“Each exemption provided for in the state sales tax statutes shall, during the period of time when such exemption shall be effective in said statutes, be applicable to the tax levied in this section; provided, that in the event of the repeal of the state sales tax statutes, as at any time amended, the exemptions effective therein immediately prior to any such repeal shall thereafter be applicable to the tax levied in this section. In addition thereto, and except as expressly enumerated hereinabove, there are hereby exempted from the tax levied in this section the gross receipts or gross proceeds of any business engaged in by any city or town in Tuscaloosa County. In the absence of any express provision herein to the contrary, all provisions and procedures with respect to the application for and issuance of licenses, the making of returns or reports, the contents of returns or reports, collection and payment of taxes, keeping of records, reporting and paying taxes with respect to sales on credit, determination of the amount of the tax due, penalties,

assessments, notices, and examinations of taxpayers and their books provided for in the state sales tax statutes with respect to the tax levied in those statutes shall be applicable to the tax levied in this section, excepting however, the procedure for appeals from assessments, and such appeals shall be made as hereinafter set forth; provided however that any procedure or provisions involving the State Department of Revenue which is incorporated herein by reference to the state sales tax statutes shall be deemed to apply, with respect to the tax levied in this section, to the tax board. Every person, firm, or corporation engaged in any business upon which the tax levied in this section is imposed shall add the tax herein levied to the sales and admission price with respect to which the said tax is levied and shall collect the same from the purchaser.

“(f) The sale of school lunches sold by all public and private schools in Tuscaloosa County, Alabama, is hereby expressly exempted.

“Section 4A. Levy of Special Use Tax. Effective as of the date so specified in an ordinance adopted from time to time by the governing body of Tuscaloosa County, there shall be levied and imposed in the county, in addition to all other taxes of every kind now or hereafter imposed by law, and shall be collected as herein provided, an excise tax in the form of a use tax, in an amount to be determined by the application of the Maximum Rate as in effect on the date of adoption of the ordinance, upon the following:

“(a) The storage, use, or other consumption in the county of tangible personal property purchased at retail on or after the effective date of this Section 4A, for storage, use or other consumption in the county at the Maximum Rate multiplied by the sales price of such property, regardless of whether the retailer who made the sale is or is not engaged in business in the county, except as provided in subsections (b) and (c) of this section.

“(b) The storage, use, or other consumption in the county of any automotive vehicle or truck trailer, and semitrailer purchased at retail, on or after the effective date of this Section 4A, for storage, use, or other consumption in the county at the rate one-fourth of the Maximum Rate multiplied by the sales price of such automotive vehicle, truck trailer, or semi-trailer.

“(c) The storage, use, or other consumption within the county of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, purchased at retail on or after the effective date of this Section 4A, at the rate of three-eighths of the Maximum Rate of the sales price of any such machine. The term ‘machine,’ as herein used, shall include machinery which is used for mining, quarrying, compounding, or

processing, or manufacturing tangible personal property, and parts of such machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(d) Notwithstanding anything in this Section 4A to the contrary, all storage, use, or other consumption of tangible personal property within the corporate limits of any municipality within Tuscaloosa County shall be exempt from the special use tax levied by this Section 4A. All storage, use, or other consumption of tangible personal property within the police jurisdiction of a municipality within Tuscaloosa County otherwise subject to the tax imposed by this Section 4A shall be entitled to a credit against such tax equal to the amount of any use tax paid to such municipality with respect to such property.

“Every person storing, using, or otherwise consuming in the county, tangible personal property purchased at retail shall be liable for the tax imposed by this section, and the liability shall not be extinguished until the tax has been paid; provided, however, that a receipt from a retailer maintaining a place of business in the county, showing that the property in question was purchased at retail from such retailer and the tax levied in Section 3A hereof has been paid with respect to the purchase at retail of such property shall be sufficient to relieve the purchaser from further liability for a tax under this section with respect to the use, storage, or consumption of such property. Each exemption provided for in the state use tax statutes shall, during the period of time when such exemption shall be effective in the statutes, be applicable to the tax levied in this section. In the event of the repeal of the state use tax statutes, the exemptions effective therein immediately prior to any such repeal shall thereafter be applicable to the tax levied in this section. All provisions and procedures with respect to the filing of returns, collections, and payment of taxes, keeping of records, making of reports, determination of the amount of the tax due, penalties, assessments, notices, examinations of taxpayers and their books provided in the state use tax statutes, with respect to the tax levied in those statutes, shall be applicable to the tax levied in this section, excepting, however, the procedure for appeals from assessments, and such appeals shall be made as hereinafter set forth. Any procedure or provisions involving the State Department of Revenue which is incorporated herein by reference to the state use tax statutes shall be deemed to apply, with respect to the tax levied in this section, to the tax board.”

Section 3. The Tax Board shall issue such rules and regulations as it deems necessary to carry out the provisions of this Act.

Section 4. The provisions of this Act are expressly made non-severable. If any part of this Act is declared invalid or unconstitutional, the entire Act shall be null and void as of the date specified in the order or decree declaring such invalidity or unconstitutionality.

Section 5. All laws or parts of law in conflict with this Act are hereby repealed.

Section 6. Except as provided in the following sentence, this Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. The amendments to Section 11 of the Act shall become effective only upon the first levy of the special sales and use tax authorized by Sections 3A and 4A of the Act.

Approved April 21, 1994

Time: 10:55 A.M.

Act No. 94-555

H. 296 – Rep. Venable

AN ACT

Relating to Coosa County; providing for the county commission to reimburse the offices of the revenue commissioner and the probate judge for any monetary loss resulting from the performance of official duties for errors or mistakes made in good faith, and providing for the funds to be payable from the general fund of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The Coosa County Commission shall reimburse the offices of the revenue commissioner and the probate judge from the general fund of the county the amount of any monetary loss, arising or caused by error, if the mistake or omission was caused without their personal knowledge, including loss arising from acceptance of worthless or forged checks, drafts, money orders, or other written orders for money or its equivalent.

Section 2. The revenue commissioner and the probate judge shall insure that their employees exercise due care in performing their duties and to make a diligent effort to correct the error, mistake, or omission, and collect the amount subject to potential loss immediately upon becoming aware of the potential loss. This act shall not apply to any deliberate misuse or misappropriation of funds by the officials, clerks, or employees of their offices.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:56 A.M.

Act No. 94-556

H. 297 – Rep. Venable

AN ACT

Relating to Coosa County; to provide for five commissioners elected from single-member districts; to provide for the selection of one commissioner to serve as chair; to provide for the salary of the chair and associate commissioners to be the same as provided by existing law; to provide that effective with the term of office that begins in November, 2000, the judge of probate will no longer serve as ex officio member of the commission or as chair; to provide for the boundaries of the five commission districts; to establish a unit road system for the operation of the county roads and bridges; to provide for the employment of an administrator and county engineer; to require members of the county commission to inspect the roads and bridges in their districts; and to repeal all conflicting law, including but not limited to, Act No. 86-239, H. 775, 1986 Regular Session.

Be It Enacted by the Legislature of Alabama:

Section 1. Beginning with the term of office which commences in November, 2000, the organization and composition of the County Commission of Coosa County shall be altered to comply with this act. The governing body shall continue to be known as the County Commission of Coosa County and shall have and exercise all of the powers, duties, limitations, and responsibilities conferred on the county commission by the general laws of Alabama. For the purpose of transacting official business, a quorum shall consist of three commissioners.

Section 2. Each member of the Coosa County Commission shall represent a separate district. Only the qualified electors residing in a district may vote to elect the commissioner representing the respective district. No person shall be eligible as a candidate for county commission unless he or she is a bona fide resident of the district that he or she seeks to represent. A member of the county commission shall reside in the district he or she represents during his or her term of office.

Section 3. For the purposes of this act, and for future elections for members of the county commission, Coosa County is divided into five separate districts, numbered one to five, inclusive, as set out in a map prepared by the East Alabama Regional Planning and Development Commission and officially approved by

the Coosa County Commission. The map shall be attached to this act, and shall be on file in the Office of the Judge of Probate of Coosa County.

Section 4. Any vacancy occurring in the office of county commissioner shall be filled in the manner provided by law.

Section 5. Beginning with the term of office which commences in November, 2000, the five members of the Coosa County Commission shall elect from among themselves a chair who shall serve at the pleasure of the commission. The chair and each commissioner shall receive salary as provided in Section 11-3-4.1 of the Code of Alabama 1975. In the event of a vacancy in the office of chair during a term of office, the members of the commission shall select a chair from among themselves to complete the term of office. Immediately upon selection of a chair, the judge of probate shall cease to be an ex officio member and chair of the county commission. The chair shall have and exercise all of the powers, duties, limitations, and responsibilities given to the chair of the county commission by general law or by local law. The chair, with approval of the county commission, shall manage the daily operation of the county commission.

Section 6. The Coosa County Commission shall establish a centrally located shop and central unit road system for the operation of the county roads and bridges. The county engineer shall at each October meeting of the county commission make recommendations for a yearly work plan and present an annual budget. The commission at its regular meetings shall discuss needs as they arise and vote on all issues that might affect the county.

Section 7. A vacancy occurring in the office of commissioner shall be filled in the manner provided by law.

Section 8. The chair, with approval of the county commission, shall employ an administrator who shall devote his or her entire time to the duties of the office. The administrator shall receive compensation as determined by the county commission. The chair, with the approval of the county commission, may employ other clerical help and assistance deemed necessary for the proper, efficient, and economical operation the county commission. The administrator shall enter the minutes of all proceedings of the county commission in a well-bound book provided for that purpose. The book shall be kept in the office of the county commission and shall be open to the inspection of the public at all reasonable hours. The administrator shall keep a complete record of all receipts and disbursements of all county funds and shall be prepared at all times to show the financial condition of the county.

Section 9. The chair, with the approval of the county commission, shall employ a county engineer, who shall be a qualified and

competent civil engineer, possessing all of the qualities as specified for county engineers pursuant to law. The county engineer shall devote his or her time and attention to the maintenance and construction of the Coosa County public roads, highways, bridges, ferries, and county shop, and shall, during his or her employment, reside in Coosa County. The county engineer shall serve at the pleasure of the county commission. The county engineer of Coosa County shall perform all of the following duties: (1) Employ, supervise, and direct all assistants necessary to properly maintain and construct the public roads, highways, bridges, ferries, and county shop of Coosa County, and shall prescribe their duties and discharge employees for cause or when not needed. (2) Perform engineering and surveying services as required, and prepare and maintain all necessary maps and records. (3) Maintain the necessary accounting funds and records to reflect the cost of the county highway system. (4) Build or construct new roads or change old roads. (5) Maintain and construct all county roads on the basis of the county as a unit, without regard to any district or beat lines. The county engineer is designated as the person authorized to make written requisition to the chair of the commission or his or her duly designated purchasing agent for all articles, materials, supplies, and equipment necessary for the maintenance and construction of the roads, bridges, ferries, and county shop in Coosa County. The county commission shall fix, from time to time, in accordance with prevailing economic conditions, the number of employees and the various scales of wages or salaries to be paid for labor necessary in the maintenance and construction of the roads, bridges, ferries, and county shop operation, and the wage or salary scale shall not be exceeded by the county engineer in the employment of labor and assistants. The county commission shall fix the amount of the salary of the county engineer, payable in equal monthly installments from the gasoline tax fund of Coosa County. Before entering upon his or her duties, the county engineer shall make and enter into a surety bond in an amount set, from time to time, by the county commission, conditioned for the faithful discharge and performance of his or her duties as county engineer, and for the faithful accounting of all monies or property of the county, which may come into his or her possession or custody. The bond shall be executed by a surety company authorized and qualified to do business in Alabama, approved by the chair of the county commission, and the premiums thereon shall be paid by Coosa County. The county commission shall furnish the county engineer with an office and all necessary office supplies, and shall furnish him or her with necessary transportation in connection with his or her duties pursuant to this act. The county engineer shall be the custodian of all road tools, machinery, supplies, and equipment. The county commission shall furnish the necessary storage facilities in which to keep the tools, machinery, supplies, and equipment and

the county engineer shall keep on file in his or her office, at all times, an up-to-date inventory, containing a list of all the tools, machinery, equipment, and supplies belonging to the county. The authority of the county engineer shall be limited to the expenditure of funds for the purposes of construction, maintenance, or repairs of public roads, bridges, and ferries of the county as appropriated by the county commission. The county commission shall fix and determine the amount of funds which will be available for the purpose of building, maintaining, and constructing public roads, bridges, and ferries of Coosa County for the ensuing fiscal year, beginning on October 1. That amount, other than the salary of the county engineer, and his or her necessary expenses, shall not be exceeded, except that the county commission may, from time to time, within any period, increase the amount allowed to be expended by the county engineer during the period, provided that the authorization does not conflict with other provisions law.

Section 10. Each member of the county commission shall inspect the roads and bridges of his or her district, from time to time, hear the suggestions and complaints of the citizens, and report the suggestion or complaint to the county commission with his or her recommendations. The members of the county commission shall also assist in securing right-of-way and assist in public relations generally.

Section 11. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 12. All laws or parts of laws which conflict with this act, including, but not limited to, Act No. 86-239, H. 775 of the 1986 Regular Session (Acts 1986, p. 362), are repealed.

Section 13. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 10:57 A.M.

Act No. 94-557

H. 298 – Rep. Venable

AN ACT

Relating to Coosa County; providing that beer or ale may be sold in containers not exceeding 32 fluid ounces in size.

Be It Enacted by the Legislature of Alabama:

Section 1. In Coosa County, in addition to all other containers provided for by law, beer or ale may be sold in containers that

do not exceed 32 fluid ounces in size. The sale may be authorized or rescinded by resolution of the county commission at any regularly scheduled meeting of the county commission.

The taxes on the beer or ale in such containers shall be as provided by law.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:00 A.M.

Act No. 94-558

H. 857 – Rep. Blakeney

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Demopolis in Marengo County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Demopolis in Marengo County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

TRACT A

All that part of Sections 21 and 22 lying southerly of the south boundary of the Southern Railroad, and all of Section 27, and all of Section 33, and all that part of Section 28 lying northerly of the southerly boundary of U.S. Highway 80, all being in Township 18 North, Range 3 East, Marengo County, Alabama.

TRACT B

All of Section 6, Township 17 North, Range 3 East, Marengo County, Alabama.

Less and except that part within the present city limits of the City of Demopolis.

TRACT C

All of Sections 34 and 35, Township 18 North, Range 2 East, Marengo County, Alabama.

Less and except that part within the present city limits of the City of Demopolis.

TRACT D

All of Section 1, Township 17 North, Range 2 East, Marengo County, Alabama.

Less and except that part within the present city limits of the City of Demopolis.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Demopolis is on file in the office of the Judge of Probate in Marengo County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:01 A.M.

Act No. 94-559

H. 859 – Rep. Laird

AN ACT

Relating to Randolph County; authorizing the county commission to levy an additional one cent sales and use tax; providing for the collection, distribution, and use of the proceeds of the tax; prescribing penalties and fixing punishment for violation of this act; providing for a termination date; and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Randolph County.

Section 2. As used in this act, state sales and use tax means the tax imposed by the state sales and use tax statutes, including, but not limited to, Sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

Section 3. The County Commission of Randolph County may, in its discretion, levy, in addition to all other taxes, including, but not limited to, municipal gross receipts license taxes, a one cent privilege license tax against gross sales or gross receipts. Notwithstanding the foregoing, the amount of the tax authorized to be levied pursuant to this act upon each person, firm, or corporation

engaged in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, and any parts of such machines or any motor vehicle, truck trailer, semitrailer, or house trailer shall be one-half of one percent of the sales price. Provided, however, when any used motor vehicle, truck trailer, semitrailer, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax authorized to be levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

The gross receipts of any business and the gross proceeds of all sales which are presently exempt under the state sales and use tax statutes are exempt from the tax authorized by this act.

Section 4. The tax levied by the county commission pursuant to this act shall be collected by the State Department of Revenue or otherwise as provided by resolution of the Randolph County Commission at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department a report in the form prescribed by the department. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied pursuant to this act, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax levied pursuant to this act may defer reporting credit sales until after their collection, and in that event, the person shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the tax due at the time of filing the report. All reports filed with the department under this section shall be available for inspection by the county commission, or its designee.

Section 5. Each person engaging or continuing in a business subject to the tax levied pursuant to this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer because of the sale or admission. It shall be unlawful for any person subject to the tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount required to be added to the sale or admission price. It shall be unlawful for any person subject to the tax levied pursuant to this act to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption or refund of any portion of the tax.

Section 6. The tax levied pursuant to this act shall constitute a debt due Randolph County. The tax, together with any interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom the tax is due or who is required to collect the tax. The department shall collect the tax, enforce this act, and have and exercise all rights and remedies that the state or the department has for collection of the state sales and use tax. The department may employ special counsel as is necessary to enforce collection of the tax levied pursuant to this act and to enforce this act. The department shall pay the special counsel any fees it deems necessary and proper from the proceeds of the tax collected by it for Randolph County.

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax levied pursuant to this act. The State Commissioner of Revenue and the department shall have and exercise the same powers, duties, and obligations with respect to the tax levied pursuant to this act that are imposed on the commissioner and department by the state sales and use tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the tax levied pursuant to this act, and to the administration and enforcement of this act, are incorporated by reference and made a part of this act as if fully set forth herein.

Section 8. The department shall charge Randolph County for collecting the tax levied pursuant to this act in an amount or percentage of total collections as may be agreed upon by the commissioner and the Randolph County Commission. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due Randolph County for that month. The Commissioner of Revenue shall pay into the State Treasury all amounts collected under this act, as the tax is received by the department on or before the first day of each successive month. The commissioner shall certify to the State Comptroller the amount collected and paid into the State Treasury for the benefit of Randolph County during the month immediately preceding the certification. The State Comptroller shall issue a warrant each month payable to the County Treasurer of Randolph County in an amount equal to the certified amount which shall be paid into the county general fund to be used to provide more efficient law

enforcement protection for rural citizens, for county-wide emergency and preventative health care services, for adequate staffing of the county jail and for the safe detention of prisoners, for the implementation and enforcement of a solid waste program, and for the improvement and maintenance of roads.

Section 9. This act shall be inoperative and void unless it is approved by a majority of the qualified electors of the county who vote thereon at the general election held in November 1994 in the county. Notice of the election shall be given by the judge of probate and shall be published once a week for three successive weeks before the day of the election. On the ballots used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law authorizing the county commission to levy a one cent sales and use tax which shall terminate in five years? Yes ____ No ____.”

If a majority of the votes cast at the election are affirmative votes, this act shall have full force and effect on the first day of the second month following the election. If a majority of the votes cast are negative votes, this act shall have no further effect. The judge of probate shall certify the results of the election to the Secretary of State.

Section 10. If the tax authorized pursuant to this act becomes effective, it shall terminate on January 1, 2000, and the provisions of this act shall be null and void on that date.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:01 A.M.

Act No. 94-560

H. 860 – Reps. Haynes, Johnson

AN ACT

To amend Section 17-4-156, Code of Alabama 1975, relating to the working days of the boards of registrars, to provide further for the working days of the Talladega County Board of Registrars.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-4-156, Code of Alabama 1975, is amended to read as follows:

“§17-4-156.

“(a) Each member of the board of registrars in the counties of Blount, Chambers, Cherokee, Clarke, Clay, Cleburne, Conecuh, Coosa, Crenshaw, Dallas, Escambia, Geneva, Hale, Henry, Lawrence, Limestone, Lowndes, Marengo, Perry, Sumter, Washington, and Wilcox may meet a maximum of 120 working days each fiscal year beginning October 1, 1984, and thereafter; each member of the board of registrars in the counties of Barbour, Butler, Covington, Fayette, Greene, Lauderdale, Lee, Marion, Pickens, Pike, Randolph, Talladega, St. Clair, and Winston may meet a maximum of 168 working days each fiscal year beginning October 1, 1984, and thereafter, except in the counties of Lee and Pike each board of registrars may meet up to an additional 30 session days each fiscal year, at the discretion of the chairman of the county commission, beginning October 1, 1985, and thereafter and such days shall be paid from the respective county funds; each member of the board of registrars in the counties of Dale, Franklin, Houston, Marshall, Bullock, Macon, and Tuscaloosa may meet a maximum of 216 working days each fiscal year beginning October 1, 1984, and thereafter; and each member of the boards of registrars in the counties of DeKalb, Elmore, Jackson, Russell, and Shelby may meet a maximum of 167 working days each fiscal year beginning October 1, 1984, and thereafter.

“(b) In the counties of Choctaw, Coffee, Colbert, Cullman, and Monroe, each member of the board of registrars may meet a maximum of 199 working days each fiscal year beginning October 1, 1984, and thereafter.

“(c) Each member of the board of registrars of Etowah, Autauga, Bibb, and Tallapoosa counties may meet a maximum of 187 working days each fiscal year. Each member of the board of registrars of Walker county may meet a maximum of 180 days each fiscal year and each member of the board of registrars of Lamar county may meet a maximum of 140 days each fiscal year.

“(d) Each member of the board of registrars in the counties of Baldwin, Calhoun, Chilton, Madison, Mobile, Montgomery, and Morgan are authorized to meet not more than five days each week for the purpose of carrying out their official duties. Jefferson county, which is now operating under the provisions of local bills, shall be exempted from the provisions of this section. Provided, however, that where the words ‘each year’ are used in such local acts such words shall mean ‘each fiscal year beginning October 1, 1984, and thereafter.’

“(e) The actual number of working days to be used as session days shall be determined by a quorum of the board according to the needs of the county.

“(f) As many as 25 of the allotted working days may be used for special registration sessions (i.e., those sessions held away from the courthouse in the several precincts of the county or sessions held on Saturday or between the hours of 5:00 P.M. and 9:00 P.M.) which special sessions are hereby authorized. Notice of any special session scheduled by the board must be given at least 10 days prior to the session by (1) bills posted at three or more public places in each election precinct affected, if the session involves precinct visits, and (2) advertisement once a week for two successive weeks in a newspaper published in the county or by radio or television announcements on a local station, or both.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:05 A.M.

Act No. 94-561

S. 653 – Senator deGraffenried

AN ACT

To authorize Class IV municipalities organized in accordance with Section 11-44B-1, et seq., Code of Alabama 1975, to annex unincorporated territory which has been enclosed within the corporate limits of the municipality for one (1) year or more, and prescribing procedures for the annexation of the unincorporated territory.

Be It Enacted by the Legislature of Alabama:

Section 1. Any Class IV incorporated municipality in this state organized in accordance with Section 11-44B-1, et seq., Code of Alabama 1975, shall have the following power and authority:

(a) To annex all or any portion of any unincorporated territory or any unincorporated territories which are enclosed within the corporate limits of the municipality and have been so enclosed for a period of one (1) year or more on the effective date of this act. The municipality shall adopt an ordinance finding and declaring that the unincorporated territory or unincorporated territories set forth and described therein is enclosed within the existing corporate limits of the municipality and has been so enclosed for a period of one (1) year or more on the effective date of this act and that the annexation of the unincorporated territory or unincorporated territories is in the best interest of the public good and welfare of the municipality. Annexation of the

unincorporated territory or unincorporated territories described in the ordinance shall be effective following the adoption and the publication thereof as required by law, and the filing of a copy of the ordinance, together with a map of the territory or territories annexed in the office of the judge of probate of the county or counties where the annexed territory is located. Any annexation made pursuant to this subsection must be made within one year of the effective date of this act.

(b) To annex all or any portion of any unincorporated territory or any unincorporated territories which become enclosed within the corporate limits of the municipality and have been so enclosed for a period of one (1) year or more. The municipality shall adopt an ordinance finding and declaring that the unincorporated territory or unincorporated territories set forth and described therein is enclosed within the corporate limits of the municipality and has been so enclosed for a period of one (1) year or more on the date of the adoption of said ordinance and that the annexation of the unincorporated territory or unincorporated territories is in the best interest of the public good and welfare of the municipality. Annexation of the unincorporated territory or unincorporated territories described in the ordinance shall be effective following the adoption and the publication thereof as required by law, and the filing of a copy of the ordinance, together with a map of the territory or territories annexed in the office of the judge of probate of the county or counties where the annexed territory is located. Provided, however, no unincorporated territory or unincorporated territories larger than fifteen (15) acres in size may be annexed pursuant to the provisions of this subsection of this act.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:10 A.M.

Act No. 94-562

S. 665 – Senator Ellis

AN ACT

Relating to Shelby County, to provide a salary supplement for the judicial assistant to the Presiding Circuit Court Judge and the Presiding District Court Judge and to repeal Act No. 91-463, S. 667, 1991 Regular Session, (Acts 1991, p. 837).

Be It Enacted by the Legislature of Alabama:

Section 1. The judicial assistant to the Presiding Circuit Judge of the 18th Judicial Circuit shall receive an annual salary supplement in the amount of four thousand eight hundred dollars (\$4,800). The salary supplement shall be in addition to any salary received by the judicial assistant and shall be paid out of the Shelby County General Fund with prior approval of the Shelby County Commission which must be evidenced by at least seven affirmative votes thereof.

Section 2. The judicial assistant to the Presiding District Judge of the 18th Judicial Circuit shall receive an annual salary supplement in the amount of two thousand four hundred dollars (\$2,400). The salary supplement shall be in addition to any salary received by the judicial assistant and shall be paid out of the Shelby County General Fund with prior approval of the Shelby County Commission which must be evidenced by at least seven affirmative votes thereof.

Section 3. Act No. 91-463, S. 667, 1991 Regular Session, (Acts 1991, p. 837), is repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:16 A.M.

Act No. 94-563

S. 577 – Senator J. Smith

AN ACT

Relating to the Twenty-third Judicial Circuit consisting of Madison County; to amend Section 3 of Act No. 80-485, H. 859, Regular Session 1980 (Acts 1980, p. 755), providing for the parking of jurors, assessment, collection, and use of additional court costs in certain cases to defray the expense of juror parking, so as to further provide for the court costs in civil and domestic relations cases in the circuit court.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 80-485, H. 859, Regular Session 1980 (Acts 1980, p. 755), is amended to read as follows:

“Section 3. For the support and maintenance of juror parking established under this act, a parking fee of Three and no/100 dollars (\$3.00) shall be paid in all civil, domestic relations, and criminal cases in the district and circuit courts of Madison County to be

collected as other court costs are collected and paid at the time as docket fees, fines, or other court costs. The parking fee described in this act shall be paid in all civil, domestic relations, and criminal cases in each court in the Twenty-third Judicial Circuit. All funds collected under the provisions of this section shall be transmitted to the Madison County Juror Parking Fund by the tenth (10th) of each month following their collection."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:17 A.M.

Act No. 94-564

H. 685 – Reps. Petelos, Newton (D)

AN ACT

Relating to Jefferson County; to amend Section 18 of Act No. 248, H. 580 of the 1945 Regular Session (Acts 1945, p. 376), as last amended by Act No. 89-467, H. 541 of the 1989 Regular Session (Acts 1989, p. 967), relating to creating and establishing a countywide civil service system; to provide for additional names to be certified for vacancies in the classified service.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 18 of Act No. 248, H. 580 of the 1945 Regular Session (Acts 1945, p. 376), as last amended by Act No. 89-467, H. 541 of the 1989 Regular Session (Acts 1989, p. 967), is amended to read as follows:

"Section 18. Appointments. Vacancies in the Classified Service shall be filled either by transfer, promotion, appointment, reappointment, or demotion. Whenever a vacancy in an existing position is to be filled by appointment, the appointing authority shall submit to the director a statement of the title of the position, and if requested by the director to do so, the duties of the position, and desired qualifications of the person to be appointed, and a request that the director certify to the appointing authority the names of persons eligible for appointment to the position. The director shall thereupon certify to the appointing authority the ranking eligibles, correlating to the 10 highest test scores from the appropriate register, and if more than one vacancy is to be filled,

the ranking names of the next highest test score for each available vacancy or all the names on the register if there are fewer than 10. The director shall, upon the request of the appointing authority, add to any certification for the employment the name of any person who is certified by the director of the division of rehabilitation and crippled children of the state department of education, as being eligible for rehabilitation services, or who is certified by a physician duly licensed to practice medicine in the State of Alabama to have a permanent neurological, muscular, skeletal, or other physical impairment rendering the person unable to transport himself or herself from place to place in a normal manner without the use of transportive devices such as a wheelchair or supportive devices such as braces, crutches, or both; but the director may nevertheless not give preference in certification for employment to any handicapped person if he or she finds the person is physically or otherwise unfit to perform effectively the duties of the position in which he or she seeks employment. The personnel board shall adopt appropriate rules and regulations governing all appointments to vacancies in the classified service to the end that such rules shall comply with the law and serve the public interest. In the event that a jurisdiction accepts and utilizes Federal funds for the creation of public employment opportunities, the positions when budgeted on a full time basis for 12 months, shall be treated as any other regular position in the Classified Service. Should the applicable Federal regulations controlling the use of the funds prescribe the unusual or exceptional prerequisites for employment in the program, the director subject to approval of the board, may prescribe the manner in which the position shall be filled and related conditions of employment. If it is impossible to locate any of the persons so certified or should it become known to the director that any person is not willing to accept the position, the appointing authority may request that the additional names be certified until 10 persons eligible and available for appointment have been certified. Within 10 days after the names are certified the appointing authority shall appoint one of those whose names are certified to each vacancy which he or she is to fill. When a new position is created by the governing body the appointing authority shall notify the director of the duties of the position and the desired qualifications of the person to be appointed. If there is no appropriate eligible list from which certification can be made, the director shall establish such a list within 45 days after receipt of the request and no provisional appointment shall be authorized within that time except with the unanimous approval of the board. The appointing authority shall report to the director the name the person appointed, the effective date of appointment, and any other information as may be required. The names of the remaining eligibles certified shall be returned to the eligible list for certification

to the next vacancy which may occur. The name of an eligible may be removed from the eligible list after it has been certified and refused three times. All appointments shall be made for a probationary period of 12 months. During that period the appointing authority may remove an appointee upon filing with the director, in writing, his or her reasons for the action which action shall not be reviewable. After the expiration of the probationary period the employees shall have earned permanent status subject to this subdivision as to removals, suspensions, and changes. No persons shall be appointed pursuant to any title not appropriate to the duties of the position to which he or she is appointed except by the consent of the director. When a position to be filled involves fiduciary or financial responsibility or law enforcement, the appointing power or the board may require the applicant to furnish a reasonable bond or other security in an amount and form to be fixed by the appointing authority subject to the approval of the board provided, but when the amount and terms of the bonds are now prescribed by law, that provision of law shall remain in effect. The bond or security shall be approved by the appointing authority, kept, and conditioned as the appointing authority prescribes unless otherwise provided by law. The appointing authority in all cases not excepted or exempted pursuant to this subdivision or the Constitution of Alabama of 1901, shall only fill positions in the county or municipalities therein, by appointment, including cases of transfer, reinstatement, promotions, and demotions, in strict accordance with this subdivision and the rules and regulations prescribed. In the event an appointing authority fails or refuses to fill a vacancy in an existing position from a certified list of eligibles the director may refuse to certify the payroll, voucher, or account of any ineligible person found to be performing the duties of the position. When there is no eligible list from which a vacancy in an existing position may be filled, the director may certify to the appointing authority the names of all persons who have filed notice of their intention to take an examination appropriate to the position, and who after investigation appear to have had experience or training which qualify them for the position, and a provisional appointment from among the number may be made by the appointing authority pending the establishment of an eligible list. No provisional appointment shall be continued for a period of over 10 days after the establishment of an eligible list and shall not be continued for a longer period than four months. During a war emergency period, the director may, in the absence of any appropriate eligible list, authorize a limited tenure appointment without examination. The appointment shall not be for longer than the duration of the war emergency period plus six months, and shall not give persons appointed status in the Classified Service by reason of the duration appointment.

“Notwithstanding any other provision of this act, when one or more vacancies in the entry-level position of police officer or firefighter is to be filled by appointment, the appointing authority may elect to have the director certify to the appointing authority the names of five different eligibles for each vacancy. The election may be accomplished by letter of the appointing authority, or by any other method as the board may reasonably adopt.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:20 A.M.

Act No. 94-565

H. 907 – Reps. Hill, Knight (A)

AN ACT

Relating to Shelby County, to provide a salary supplement for the judicial assistant to the Presiding Circuit Court Judge and the Presiding District Court Judge and to repeal Act No. 91-463, S. 667, 1991 Regular Session, (Acts 1991, p. 837).

Be It Enacted by the Legislature of Alabama:

Section 1. The judicial assistant to the Presiding Circuit Judge of the 18th Judicial Circuit shall receive an annual salary supplement in the amount of four thousand eight hundred dollars (\$4,800). The salary supplement shall be in addition to any salary received by the judicial assistant and shall be paid out of the Shelby County General Fund with prior approval of the Shelby County Commission which must be evidenced by at least seven affirmative votes thereof.

Section 2. The judicial assistant to the Presiding District Judge of the 18th Judicial Circuit shall receive an annual salary supplement in the amount of two thousand four hundred dollars (\$2,400). The salary supplement shall be in addition to any salary received by the judicial assistant and shall be paid out of the Shelby County General Fund with prior approval of the Shelby County Commission which must be evidenced by at least seven affirmative votes thereof.

Section 3. Act No. 91-463, S. 667, 1991 Regular Session, (Acts 1991, p. 837), is repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:21 A.M.

Act No. 94-566

H. 329 – Rep. Morton

AN ACT

Relating to the City of Birmingham in Jefferson County; to amend Act No. 453, H. 427 of the 1967 Regular Session (Acts 1967, p. 1129), as amended by Act No. 393, H. 1317 of the 1975 Regular Session (Acts 1975, p. 976), as amended, establishing a pension and relief fund for officers and employees of the library board of any city having a population of 300,000 or more according to the 1970 or any subsequent federal census, to authorize the library board employer of the members of the Library Board Employees' Pension and Relief Fund to pay certain employee contributions for certain members of the system.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 453, H. 427 of the 1967 Regular Session (Acts 1967, p. 1129), as amended by Act No. 393, H. 1317 of the 1975 Regular Session (Acts 1975, p. 976), is amended to contain an additional section to read as follows:

“Notwithstanding any other provisions of law, the Library Board as employer shall enter into agreements with the members of the Library Board Employees' Pension and Relief Fund to adjust wages or salaries and to pay the required contributions of an employee to the fund. All agreements pursuant to this act shall conform to applicable federal income tax laws, rules, and regulations.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:22 A.M.

Act No. 94-567

H. 243 – Rep. McDowell

AN ACT

Relating to Jefferson County; to amend Act No. 929, S.676, 1951 Regular Session, as amended, which created a Retirement and Relief System for officers and employees of the City of Birmingham, to provide benefits for surviving spouses of participants of the Supplemental Pension System and to provide for a retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Article VI, Section 14, of Act No. 929, S. 676, 1951 Regular Session, as amended, relating to the Birmingham Retirement and Relief System, is further amended to read as follows:

"Section 14. In the event a fireman or policeman retires under the Supplemental Pension System established by Act No. 556, 1951 Regular Session, after having accumulated 20 years of credited service under the system had he or she not retired but rather had continued in the employment with the city, without interruption, as a fireman or policeman, the participant's surviving spouse shall not receive any benefit therefrom. However, should the retired fireman or policeman die subsequent to the date on which he or she would have accumulated 30 years of credited service hereunder, and if the retiree is survived by a spouse to whom the retiree was married at least three years at the time of the retiree's death, regardless of whether the marriage occurred before or after the retiree's departure from service, the surviving spouse shall be entitled to receive until such time as he or she should remarry a monthly survivor's benefit in the amount equal to 45 percent of the monthly retirement benefit which the retiree was receiving or entitled to receive on the date of death as if the surviving spouse was entitled to a benefit under Sections 10 and 11 of this Article. This amendatory act shall apply prospectively and also retroactively to and after the 11th day of November 1959, and had been continuously in effect since that date, except that no benefit shall be payable for any period prior to the effective date of this act.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:23 A.M.

Act No. 94-568

H. 897 – Rep. Melton

AN ACT

Relating to the office of the sheriff in Tuscaloosa County; to provide for the position of chief jailer in the unclassified service of the county; to provide for the compensation of the chief jailer; and to authorize the Sheriff of Tuscaloosa County to appoint the chief jailer.

Be It Enacted by the Legislature of Alabama:

Section 1. Upon the occurrence of a vacancy in the position of chief jailer of Tuscaloosa County, the position shall cease to be in the classified service of the county pursuant to the county civil service or merit system law. Thereafter, the chief jailer of Tuscaloosa County shall be an employee of the county in the unclassified service. The chief jailer shall be appointed by the sheriff without regard to the county civil service or merit system law and shall serve at the pleasure of the sheriff.

Section 2. The compensation of the chief jailer shall be a salary, payable out of the county treasury, in the same manner and at the same time as the salaries of other employees of the county are paid. The chief jailer shall receive compensation in an amount equal to the compensation range of a Tuscaloosa County Sheriff's Department lieutenant, with the pay step, if the chief jailer shall be appointed from the ranks of present or future deputies or guards of Tuscaloosa County, to be the step to which the incumbent would be entitled if the incumbent were appointed within the civil service system of Tuscaloosa County. If the incumbent shall be appointed from without the civil service system of Tuscaloosa County, then the pay step of the position shall be set at the time of appointment at the pleasure of the sheriff, within the range of lieutenant, but in no instance may the pay step exceed that of pay step 18 of a Tuscaloosa County Sheriff's Department lieutenant. The chief jailer shall be entitled to receive all the same benefits as other employees in the classified service of the county. If a person currently classified higher than a deputy is appointed chief jailer, the chief jailer shall receive a minimum compensation of a state trooper lieutenant (pay range 76 of the state merit system).

Section 3. The position of chief jailer in Tuscaloosa County shall be filled in the manner provided by this act only when the next vacancy in the position occurs.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:34 A.M.

Act No. 94-569

H. 822 – Reps. Hooper, McKee, Knight (J),
Walker

AN ACT

Relating to Montgomery County; pertaining to the Retirement System for Employees of Montgomery County; to amend Section 1 of Act No. 724 of the Legislature of Alabama of 1981 to provide a regular retirement for employees who complete 30 years of creditable service; to amend Section 1 of Act No. 469 of the Legislature of Alabama of 1989 and Section 1 of Act No. 392 of the Legislature of Alabama of 1993 to

increase employee contributions to five percent of salary; and establish provisions for an employee to be restored to active service from service retirement.

Be It Enacted by the Legislature of Alabama:

Section 1. Paragraph 1(a) of Section 1 of Act No. 724 of the Legislature of Alabama of 1981 is hereby amended in its entirety as follows:

(1) Service Retirement Allowance

(a) The normal retirement date of a member shall be the date on which he completes the applicable eligibility requirements as follows:

(i) In the case of a prior member in Class I, attainment of age sixty; or, attainment of age fifty-five and completion of at least thirty years of creditable service; provided, however, that if such member has completed at least thirty years of creditable service before attaining the age of fifty-five and afterwards resigned from employment with the county but has not withdrawn his or her contributions, he or she shall be eligible for a service retirement allowance upon attainment of age fifty-five;

(ii) In the case of a prior member in Class II, attainment of age fifty-five and completion of twenty years of creditable service, or attainment of age seventy if earlier;

(iii) In the case of a new member, attainment of age sixty and completion of twenty years of creditable service or attainment of age seventy if earlier.

(iv) In the case of any member, completion of 30 years of creditable service.

Any member in service who has attained his normal retirement date shall be retired by the commission on a service retirement allowance upon his written application setting forth at what time, not less than thirty nor more than ninety days next following the execution and filing thereof, he desires to be retired, notwithstanding that during such period of notification he may have separated from service.

Section 2. Section 1 of Act No. 469 of the Legislature of Alabama of 1989 is hereby amended in its entirety as follows:

(1) Member's Account

(a) The Members' Account shall be the account in which shall be held the contributions made to the Retirement System pursuant to this act from the compensation of members. The rate of contribution to the Retirement System by the members shall be five per centum (5%) of earnable compensation. No deduction shall be made from the compensation of a member who has completed forty years of creditable service.

Section 3. Paragraph (6)(a) of Section 1 of Act No. 392 of the Legislature of Alabama of 1993 is hereby amended to change the

contribution to five percent (5%) for anyone who becomes eligible after the effective date of this act.

Section 4. Return to active service from service retirement. Should any beneficiary be restored to active service from service retirement, their retirement allowance shall be suspended until they again withdraw from active service and they shall not again become a member of the retirement system nor shall they make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of five or more years from the date of their reentry into active service, they may request the County Commission to allow them to again become a member of the retirement system. The County Commission may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received as benefits during any periods subsequent to the date of their reentry into active service and shall make a contribution equal to the amount they would have contributed had they been a member during the period of restoration to active service on a suspended allowance basis together with interest at 8 percent per annum up to the date such contribution is made.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:35 A.M.

Act No. 94-570

H. 878 – Rep. Harvey

AN ACT

Relating to Blount County: providing for voters to vote at machines with the least voting activity.

Be It Enacted by the Legislature of Alabama:

Section 1. In Blount County, election officials shall allow voters who have signed in to vote, to use the voting machine with the fewest number of voters standing in line to use the machines.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:36 A.M.

Act No. 94-571

H. 886 – Rep. Cagle

AN ACT

Relating to Walker County; amending Section 6 of Act No. 200, H. 120, 1969 Special Session (Acts 1969, p. 263), as amended by Act No. 80-673, H. 1116, 1980 Regular Session (Acts 1980, p. 1351), relating to the county civil service system, to provide for the compensation of the members of the civil service board.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 6 of Act No. 200, H. 120, 1969 Special Session (Acts 1969, p. 263), as further amended by Act No. 89-712, H. 1021, 1989 Regular Session (Acts 1989, p. 1422), is amended to read as follows:

“Section 6. Members of the board shall be entitled to receive three hundred dollars (\$300) as per diem per month, and the board shall meet not less than once per month and no more than four times per month. In addition to the monthly per diem as fixed herein, the chair of the board shall be entitled to receive an additional per diem in an amount not to exceed one hundred dollars (\$100) monthly for other duties of the chair. The chair shall be present at all examinations given by the clerk of the board. The board shall have the power to appoint clerical assistants and engage legal counsel of its own choice, who shall be paid by the county. No clerical assistant shall have any other employment other than with the board.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:37 A.M.

Act No. 94-572

H. 845 – Reps. Penry, McMillan

AN ACT

Relating to Baldwin County; to provide for the regulation by the county commission of the construction setback from any county or state public road or highway; and to provide for appeals and exceptions.

Be It Enacted by the Legislature of Alabama:

Section 1. This bill shall apply only to Baldwin County.

Section 2. The Baldwin County Commission, through the county planning and zoning commission, shall regulate the construction setback from the centerline of any state or county public

road or highway located outside the corporate limits of a municipality in Baldwin County.

Section 3. The provisions of this act do not apply to poles, facilities, structures, water, gas, sewer, electric, telephone, bill boards, or utility lines or other facilities of public utilities.

Section 4. The construction setback from any state or county public road or highway shall vary according to the highway functional classifications submitted by the Baldwin County Commission and approved by the Federal Highway Administration for Baldwin County.

Section 5. The functional classifications and the construction setbacks required for each classification are established as follows:

(1) Principal arterials require a one hundred twenty-five (125) foot setback from the centerline of the right-of-way.

(2) Minor arterials require a one hundred (100) foot setback from the centerline of the right-of-way.

(3) Major collectors require a seventy-five (75) foot setback from the centerline of the right-of-way.

(4) Minor collectors require a fifty (50) foot setback from the centerline of the right-of-way.

Section 6. No permanent structure shall be erected or constructed within the designated construction setback.

Section 7. Any landowner or other aggrieved party may appeal any decision made pursuant to this act by filing Notice with the Baldwin County Planning and Zoning Commission within a reasonable time after such decision. On such appeal, the Baldwin County Planning and Zoning Commission shall have authority to grant such relief as it may deem appropriate to remedy a gross inequity or extreme economic hardship as may be occasioned by strict enforcement of this act or any determination made pursuant to it. From the decision of the Baldwin County Planning and Zoning Commission, and within thirty days (30) thereof, any party may appeal the decision to the Circuit Court of Baldwin County, Alabama, for trial, de novo.

Section 8. The county may institute an appropriate civil action to prevent an unlawful setback or to otherwise enforce this act.

Section 9. The provisions of this act are supplemental to any laws or any rules, regulations, or ordinances, state or local, relating to the right-of-way and the construction setback along or

near any county or state public road or highway outside the corporate limits of a municipality in Baldwin County. This act shall supersede any laws or parts of laws including any part of Act No. 87-774, H.1073, 1977 Regular Session (Acts of Alabama 1987, p. 1512), or any rules, regulations, or ordinances which directly conflict with this act.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 11:38 A.M.

Act No. 94-573

S. 121 – Senator Waggoner

AN ACT

To amend Section 10-4-20, Code of Alabama 1975, relating to the incorporation of churches, certain public societies, and graveyard owners, to further provide for the number of trustees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 10-4-20, Code of Alabama 1975, is amended to read as follows:

“§10-4-20.

“(a) The members of any church, conference of churches, religious society, educational society, benevolent, monument or burial society, patriotic society, societies for the purpose of nature study or scientific research, society for establishing public parks or places of public recreation, societies for promoting knowledge, promoting arts or promoting sciences, societies for purposes of like kind or the owners of a graveyard, or the trustees of any of the foregoing churches, conferences, institutions, or societies elected by the organization, or organizations, of the church, conferences, institution, association, or society desiring to become incorporated, shall adopt a resolution signifying the intention and elect not less than three trustees.

“(b) The trustees shall, within 30 days after their election, file in the office of the judge of probate of the county in which the corporation

is to exercise its functions, or part of its functions, a certificate stating the corporate name selected, the names of the trustees and the length of time for which they are elected, which certificate shall be subscribed by them and recorded. The members of the society, their associates and successors are, from the filing of the certificate, incorporated by the name specified."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:00 P.M.

Act No. 94-574

S. 87 – Senator Lindsey

AN ACT

To amend Section 11-85-56, Code of Alabama 1975, to expand the powers and duties of regional planning and development commissions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-85-56, Code of Alabama 1975, is amended to read as follows:

"§11-85-56.

"A regional planning and development commission established pursuant to this article may perform the following:

"(1) Carry on continuous, comprehensive planning for the region, assessing needs, resources, and development opportunities and formulating goals, objectives, policies, and standards to guide physical, economic, and human resource development.

"(2) Prepare a regional plan consistent with state comprehensive planning and reflecting plans and programs of the participating governmental units which shall set forth policies for the development of the region in accordance with present and future needs and resources including policies for patterns of urbanization, for the use of land and resources for commerce, industry, recreation, transportation, forestry, and agriculture, for the development of human resources and for administrative measures in support thereof.

"(3) Prepare an annual regional development program to implement the policies contained in the regional plan, which program

shall contain an analysis of the current status of regional development in relation to the regional plan and prior regional development programs, a review of trends affecting regional development, schedules of major program expenditures and activities and capital improvements together with financing plans and recommendations for new programs or elimination or change of existing programs and for changes in administrative organization or procedures.

“(4) Prepare and publish studies of the region’s resources.

“(5) Provide planning and technical assistance to governmental units and planning and development agencies within the region and coordinate regional planning activities with those of the state, of governmental units within the region and in neighboring regions, and with the programs of federal departments and agencies and regional commissions.

“(6) Borrow money and apply for and receive grants-in-aid, contributions, and any other forms of financial or other assistance from any sources, public or private, for the purposes of this article subject to applicable provisions of state law.

“(7) Review and comment on applications by governmental units within the region for state or federal loans, grants-in-aid, or other financial assistance and indicate their relationship to the regional plan and development program and provide information regarding state and federal grants and assistance programs in the region.

“(8) Adopt bylaws and issue rules and regulations for the conduct of its business.

“(9) Make and enter into contracts and agreements.

“(10) Acquire and dispose of real and personal property subject to applicable provisions of state law.

“(11) Promote industrial and economic growth for the region by means of advertisement, recruitment, or by whatever method deemed appropriate and approved by the commission.

“(12) Charge fees for services provided by the commission.

“(13) Employ a director and other employees and consultants, prescribe their duties and fix their compensation.

“(14) Perform other activities in furtherance of this article not inconsistent or contrary to state law.

“(15) Determine the name by which the commission shall be called and certified.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:01 P.M.

Act No. 94-575

S. 388 – Senator Floyd

AN ACT

To repeal Section 30-3-7 of the Code of Alabama 1975, relating to fees for investigation services performed by the Department of Human Resources in divorce and divorce modification proceedings, and providing for the deposit of the fees in the State General Fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 30-3-7 of the Code of Alabama 1975, is repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:02 P.M.

Act No. 94-576

S. 332 – Senator Windom

AN ACT

To amend Section 27-14-3, Code of Alabama 1975, relating to insurable interest in personal insurance contracts, to further provide for the insurable interest of a corporation and related legal entities of a corporation in the directors, officers, and employees of the corporation under certain conditions and to further provide for the insurable interest of certain charitable institutions as defined by the Internal Revenue Code in the life of a donor.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 27-14-3, Code of Alabama 1975, is amended to read as follows:

“§27-14-3.

“(a) Insurable interest with reference to personal insurance is an interest based upon a reasonable expectation of pecuniary advantage

through the continued life, health, or bodily safety of another person and consequent loss by reason of his or her death or disability or a substantial interest engendered by love and affection in the case of individuals closely related by blood or by law.

“(b) An individual has an unlimited insurable interest in his or her own life, health, and bodily safety and may lawfully take out a policy of insurance on his or her own life, health, or bodily safety and have the same made payable to whomsoever he or she pleases, regardless of whether the beneficiary so designated has an insurable interest.

“(c) A corporation, foreign or domestic, has an insurable interest in the life or physical or mental ability of any of its directors, officers, or employees, or the directors, officers, or employees of any of its subsidiaries or any other person whose death or physical or mental disability might cause financial loss to the corporation; or, pursuant to any contractual arrangement with any shareholder concerning the reacquisition of shares owned by the shareholder at the time of his or her death or disability, on the life or physical or mental ability of that shareholder for the purpose of carrying out the contractual arrangement; or pursuant to any contract obligating the corporation as part of compensation arrangements or pursuant to a contract obligating the corporation as guarantor or surety, on the life of the principal obligor. The trustee of a trust established by a corporation for the sole benefit of the corporation has the same insurable interest in the life or physical or mental ability of any person as does the corporation. The trustee of a trust established by a corporation providing life, health, disability, retirement, or similar benefits to employees of the corporation or its affiliates and acting in a fiduciary capacity with respect to the employees, retired employees, or their dependents or beneficiaries has an insurable interest in the lives of employees for whom the benefits are to be provided.

“(d) Any provision of this section and chapter to the contrary notwithstanding, a charitable organization that meets the requirements of Section 501(c) (3) of the Internal Revenue Code of 1986, as amended, may own or purchase life insurance on an individual who consents to the ownership or purchase of that insurance. The charitable organization shall be deemed to have a substantial interest in the individual insured and to have an insurable interest in the individual insured whether the charitable organization originally purchases the insurance or the insurance is later transferred to the charitable organization by the insured or another person. This subsection (d) is intended to clarify and declare existing law.”

“(e) An insurable interest shall exist at the time the contract of personal insurance becomes effective, but this requirement need not exist at the time the loss occurs.

“(f) Any personal insurance contract procured, or caused to be procured, upon another individual is void unless the benefits under the contract are payable to the individual insured, or his or her personal representative, or to a person having, at the time when the contract was made, an insurable interest in the individual insured. In the case of a void contract, the insurer shall not be liable on the contract but shall be liable to repay to the person, or persons, who have paid the premiums, all premium payments without interest.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:03 P.M.

Act No. 94-577

H. 281 – Reps. Hamilton, Carter, Smith (C),
McDaniel, Smith (R), Richardson,
Turner, Parker (P), Layson

AN ACT

To amend Sections 9-11-46, 9-11-47, 9-11-48, and 9-11-49, inclusive, Code of Alabama 1975, relating to nonresident hunting licenses, to increase the fees and to delete provisions relating to the length of deer season for certain licenses.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-11-46, 9-11-47, 9-11-48, and 9-11-49, inclusive, Code of Alabama 1975, are amended to read as follows:

“§9-11-46.

“Any nonresident of this state who is 16 years old or older shall procure an annual ‘small game only’ hunting license to hunt all legal game in this state except deer and turkey by filing an application with the commissioner of conservation and natural resources or any judge of probate or other person authorized to issue the license, stating his or her age, race, place of residence and post office address and after paying to the person issuing the license a fee of forty dollars (\$40).”

“§9-11-47.

“Any nonresident of this state who is 16 years old or older shall procure an annual ‘all game hunt license’ to hunt all legal game in

this state by filing an application with the commissioner of conservation and natural resources or any judge of probate or other person authorized to issue the license, stating his or her age, race, place of residence and post-office address and after paying to the person issuing the license a fee of two hundred dollars (\$200).

"Every person making application for a nonresident game license as provided in this section and sections 9-11-46, 9-11-48 and 9-11-49 shall present a driver license or, in the case of non-drivers, proof of permanent residence. All nonresident game licenses shall bear the driver license number of the licensee and the state where the license was issued, except in the case of non-drivers, and all licenses shall bear proof of residence as required by the commissioner of conservation and natural resources.

"Every person who obtains a nonresident game license without presenting a driver license or in the case of nondrivers, proof of permanent residence, shall be punished by a fine of not less than twice the applicable license fee.

"The issuing officer or authority shall be allowed a fee of two dollars (\$2) for each nonresident license issued by him or her as provided in this section and sections 9-11-46, 9-11-48, and 9-11-49, which issuing fee shall be in addition to the cost of the license."

"§9-11-48.

"Any nonresident of this state who is 16 years old or older shall procure a 'trip small game hunting license' to hunt all legal game in this state except deer and turkey in the same manner as provided for procuring nonresident annual hunting licenses provided for in sections 9-11-46 and 9-11-47 by paying therefor the sum of twenty-five dollars (\$25), which license will authorize the holder thereof to hunt in this state for a period of seven days from the day the license was issued."

"§9-11-49.

"Any nonresident of this state who is 16 years or older shall procure a 'trip all game hunt license' to hunt all legal game in this state in the same manner as provided for procuring the nonresident annual hunting licenses provided for in sections 9-11-46 and 9-11-47 by paying therefor the sum of seventy-five dollars (\$75), which license will authorize the holder thereof to hunt in this state for a period of seven days from the day the license was issued.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:10 P.M.

Act No. 94-578

H. 482 – Rep. Haynes

AN ACT

To amend Section 41-9-594, Code of Alabama 1975, to authorize the Alabama Criminal Justice Information Center to adopt policies concerning arrest and criminal history information that conform to policies of the National Crime Information Center of the Federal Bureau of Investigation and to repeal Sections 41-9-639 and 41-9-641 of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-9-594, Code of Alabama 1975, is amended to read as follows:

“§41-9-594.

“(a) The commission shall establish its own rules, regulations, and policies for the performance of the responsibilities charged to it in this article. The commission shall ensure that: the information obtained under authority of this article is restricted to the items germane to the implementation of this article; the Alabama criminal justice information center is administered so as not to accumulate or distribute any information not required by this article; and adequate safeguards are incorporated so that data available through this system is used only by properly authorized persons and agencies.

“(b) The commission shall appoint a privacy and security committee from the membership of the commission who are elected officials, consisting of a chair and three members, to study the privacy and security implications of criminal justice information and to formulate policy recommendations for consideration by the commission concerning the collection, storage, dissemination, or usage of criminal justice information.

“(c) The commission may adopt policies regarding the collection, storage, and dissemination of arrest and criminal history information that conform to the policies of the National Crime Information Center of the Federal Bureau of Investigation.”

Section 2. Sections 41-9-639 and 41-9-641, Code of Alabama 1975, are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:11 P.M.

Act No. 94-579

H. 618 – Rep. Biddle

AN ACT

To establish a board of trustees who shall be charged with forming the Alabama Family Trust Corporation, the Alabama Family Trust, and the Alabama Family Charitable Trust, to supplement the care, support, habilitation, and treatment of persons who have a mental or physical impairment.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) The Legislature finds and declares the following:

(1) It is an essential function of state government to provide basic support for persons with a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or occurs by reason of accident, injury, age, or disease.

(2) The cost of providing basic support for persons with a mental or physical impairment is difficult for many citizens to afford, and they are forced to rely upon the government to provide that support.

(3) The families and friends of persons with a mental or physical impairment desire to supplement, but not replace, the basic support provided by state government and other governmental programs.

(4) Medical, social, and other supplemental services are often provided by family members and friends of persons with a mental or physical impairment, for the lifetime of the impaired persons.

(5) It is necessary and desirable for the public health, safety, and welfare of the people of this state to encourage, enhance, and foster the ability of family members and friends of those individuals with a mental or physical impairment to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide for medical, social, or other supplemental services for those impaired persons.

(b) The Legislature declares the purpose of the Alabama Family Trust Corporation, the Alabama Family Trust, and the Alabama Family Trust Charitable Trust is to encourage, enhance, and foster the provision of medical, social, or other supplemental services for persons with a mental or physical impairment.

Section 2. As used in this act, the following words shall have the following meanings:

(1) ALABAMA FAMILY CHARITABLE TRUST (AFT CHARITABLE TRUST). The trust established by the board of trustees

that qualifies as a tax exempt charitable entity under the United States Internal Revenue Code, to provide benefits for individuals for whom no contribution to the AFT Trust has been made.

(2) **ALABAMA FAMILY TRUST (AFT TRUST).** The Alabama Family Trust established pursuant to this act.

(3) **ALABAMA FAMILY TRUST CORPORATION (AFT CORPORATION).** An Alabama not-for-profit corporation established by the board of trustees pursuant to this act that qualifies as a tax exempt charitable organization under the United States Internal Revenue Code.

(4) **BOARD OF TRUSTEES.** The Alabama Family Trust Board of Trustees established pursuant to this act.

(5) **COMMISSIONER.** The Commissioner of the Department of Mental Health and Mental Retardation.

(6) **CONTRIBUTION.** The balance of all amounts placed in a particular account but not including any appreciation in value of investments or accretions thereto resulting from any source, such as dividends, interest, and capital gains. In no event shall contribution mean more than the total of all contributions made to a particular account.

(7) **CONTRIBUTOR.** Any person who makes a donation directly to the AFT Corporation or the AFT Charitable Trust.

(8) **CO-TRUSTEE.** Any person named by the Donor to work with the Board of Trustees in providing benefits to a Life Beneficiary, except neither the Donor nor the Donor's spouse shall be the co-trustee if the Donor or the Donor's spouse is the Life Beneficiary.

(9) **DEPARTMENT.** The Alabama Department of Mental Health and Mental Retardation.

(10) **DONOR.** Any person who contributes assets to the AFT Trust to establish an account for a Life Beneficiary.

(11) **IMPAIRMENT.** A mental or physical disability that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury, age, or disease, and where the impairment is verified by medical findings.

(12) **LIFE BENEFICIARY.** A beneficiary designated by a donor to the AFT Trust.

(13) **NET INCOME.** The earnings received on investments less expenses and fees for administration.

(14) **REQUESTING PARTY.** The party requesting arbitration of a dispute regarding benefits to be provided by the AFT Trust.

(15) **RESPONDING PARTY.** The party not requesting arbitration of a dispute regarding benefits to be provided by the AFT Trust.

(16) **SUCCESSOR TRUST.** The trust established upon distribution by the Board of Trustees pursuant to notice of agreement of withdrawal or termination with a co-trustee and administered as set forth in this act.

(17) **SUCCESSOR TRUSTEE.** The trustee as designated by the Donor who shall administer the Successor Trust.

(18) **TRUSTEE.** A member of the Alabama Family Trust Board of Trustees.

Section 3. (a) Donors may supplement the care, support, habilitation, and treatment of impaired persons pursuant to this act. Neither the contribution to the AFT Trust for the benefit of a life beneficiary nor the use of AFT Trust income to provide benefits shall in any way reduce, impair, or diminish the benefits to which a person is otherwise entitled by law. The establishment and administration of the AFT Trust shall not be taken into consideration in appropriations for the department to render services required by law.

(b) The assets held by the board of trustees and assets held in the AFT Trust and the AFT Charitable Trust pursuant to this act shall not be considered state money, assets of the state, or revenue for any purpose of the Constitution of Alabama of 1901, or any state statute. The assets held by the board of trustees and its income and operations shall be exempt from all state and local taxation.

Section 4. (a) There is hereby created the Alabama Family Trust Board of Trustees, which shall be an instrumentality of the state. The board of trustees shall consist of eleven persons appointed by the Governor, Presiding Officer of the Senate, and Speaker of the House of Representatives. The members shall serve until their successors are appointed and confirmed by the senate. The trustees shall be persons who are not employed by the department. The board of trustees shall be composed of the following:

(1) Two individuals who represent the interests of persons with mental illness. The commissioner shall seek recommendations of those individuals to represent persons with mental illness and shall submit a list of six names to the Governor from which two shall be appointed. One shall be appointed for a term of two years, and one for three years. Thereafter, as the term of a trustee expires, the commissioner shall submit to the Governor a list of not less than three nor more than five proposed Trustees to represent the interests of

persons with mental illness and the Governor shall appoint one Trustee from the list for a term of three years.

(2) Two individuals who represent the interests of persons with mental retardation or developmental disabilities. The commissioner shall seek recommendations of those individuals to represent persons with mental retardation or developmental disabilities and shall submit a list of six names to the Governor from which two shall be appointed. One shall be appointed for a term of two years, and one for three years. Thereafter, as the term of a trustee expires, the commissioner shall submit to the Governor a list of not less than three nor more than five proposed trustees to represent the interests of persons with mental retardation or developmental disabilities, and the Governor shall appoint one trustee from the list for a term of three years.

(3) Two individuals who represent the interests of persons with physical impairments. The commissioner shall seek recommendations of individuals to represent those persons with physical impairments and shall submit a list of six names to the Governor from which two shall be appointed. One shall be appointed for a term of two years, and one for three years. Thereafter, as the term of a trustee expires, the commissioner shall submit to the Governor a list of not less than three nor more than five proposed trustees to represent the interests of persons with physical impairments, and the Governor shall appoint one trustee from the list for a term of three years.

(4) Five persons who are recognized for their expertise in general business matters and procedures. The commissioner shall submit a list of nine names to the Governor from which three shall be appointed. Of the three business people to be appointed by the Governor, one shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a trustee expires, the commissioner shall submit to the Governor a list of not less than three but not more than five proposed trustees, and the Governor shall appoint one business person from the list as trustee for a term of three years. The commissioner shall submit a list of three names to the Presiding Officer of the Senate from which one trustee shall be appointed for a term of three years. Thereafter, as the term of the trustee representing business interests appointed by the Presiding Officer of the Senate expires, the commissioner shall submit to the Presiding Officer of the Senate a list of not more than three proposed trustees, and the Presiding Officer of the Senate shall appoint one business person from the list as trustee for a term of three years. The commissioner shall submit a list of three names to the Speaker of the House of Representatives from which one trustee shall be appointed for a term of three years.

Thereafter, as the term of the trustee representing business interests appointed by the Speaker of the House of Representatives expires, the commissioner shall submit to the Speaker of the House of Representatives a list of not more than three proposed trustees, and the Speaker shall appoint one business person from the list as trustee for a term of three years.

(b) The trustees shall receive no compensation for their services. The AFT Corporation shall reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

(c) The board of trustees annually shall prepare or cause to be prepared an accounting of funds in the AFT Trust and the AFT Charitable Trust and shall transmit a copy of such accounting to the Governor, the Presiding Officer of the Senate, and the Speaker of the House of Representatives.

(d) The board of trustees shall establish policies, procedures, and other rules and regulations necessary to implement this act.

Section 5. (a) The board of trustees shall establish and administer the AFT Corporation. The board of trustees shall execute all documents necessary to establish and administer the AFT Corporation including, but not limited to, documents to form a not-for-profit corporation and to qualify as an organization pursuant to Section 501(c) (3) of the United States Internal Revenue Code.

(b) The AFT Corporation shall establish the AFT Trust and the AFT Charitable Trust, and the board of trustees shall administer the AFT Trust and the AFT Charitable Trust through the AFT Corporation. The board of trustees and the AFT Corporation shall take all steps necessary to satisfy all federal and state laws to ensure that the AFT Trust and the AFT Charitable Trust are qualified to supplement the provision of government entitlement funding and, where necessary, are qualified as tax exempt entities under the United States Internal Revenue Code.

(c) The documents establishing the AFT Trust shall include and be limited by the following:

(1) To be eligible to participate in the AFT Trust, a life beneficiary must suffer from an impairment as defined in this act and at least one of the donor, co-trustee, or life beneficiary must be a resident of the State of Alabama at the time the first contribution is made to the AFT Trust for the life beneficiary. Thereafter, at least one of the donor, co-trustee, or life beneficiary must maintain a residence in the State of Alabama to preserve eligibility.

(2) The AFT Trust may accept contributions from any source, so long as basic eligibility requirements are satisfied, to be held, administered, managed, invested, and distributed in order to facilitate the

coordination and integration of private financing for individuals who have an Impairment, while maintaining the eligibility of those individuals for government entitlement funding. All contributions, and the earnings of the AFT Trust, shall be administered as one trust for purposes of investment and management of funds. Notwithstanding the foregoing, separate accounts shall be established for each designated life beneficiary. The net income earned, after deducting administrative expenses, shall be credited to the accounts of the life beneficiaries in proportion to the amount of the contribution made for each life beneficiary, to the total contributions made for all life beneficiaries. Administrative fees charged to an account of a life beneficiary shall not exceed the income allocated to that account.

(3) Every donor shall designate a specific person as the life beneficiary of the contribution made by the donor. In addition, each donor shall name a co-trustee, including the donor and a successor or successors to the co-trustee, to act with the trustees of the AFT Trust on behalf of the designated life beneficiary. Notwithstanding the foregoing, a life beneficiary, or his or her spouse, shall not be eligible to be a co-trustee or a successor co-trustee.

(4) If a donor designates himself or herself or his or her spouse as the life beneficiary, then the account of the life beneficiary shall, regardless of any other provision of this Act, meet the following additional conditions:

(i) The AFT Trust shall be irrevocable.

(ii) The amounts remaining in the life beneficiary's account upon the death of the life beneficiary shall be retained by the AFT Trust and transferred to the AFT Charitable Trust.

(iii) Neither the donor nor the donor's spouse shall serve as co-trustee.

(5) During his or her lifetime, any donor who has not designated himself or herself or his or her spouse as the life beneficiary, may revoke any contribution made to the AFT Trust. Notwithstanding the foregoing, any donor may, at any time, voluntarily waive the right to revoke. If at the time the donor revokes the contribution to the AFT Trust and the life beneficiary has not received any benefits provided by the use of the AFT Trust income or principal, then an amount equal to the current fair market value of the principal balance of the life beneficiary's account in the AFT Trust as determined on the date of revocation, not to exceed the contribution for the life beneficiary, shall be returned to the donor. Any undistributed net income and remaining principal balance, shall be distributed to the AFT Charitable Trust. If at the time a donor revokes the contribution to the AFT Trust and the life beneficiary

has received any benefit provided by the use of trust income or principal, then an amount equal to 90 percent of the current fair market value of the principal balance of the life beneficiary account in the AFT Trust as determined on the date of revocation shall be returned to the donor. The balance of the contribution together with all undistributed net income and principal, shall be distributed to the AFT Charitable Trust.

(6) The co-trustee, with the consent of the trustee, annually shall agree on the amount of income or principal, or both, to be used to provide non-cash benefits and the nature and type of benefits to be provided to the life beneficiary. Such permissible benefits shall include, but not be limited to, more sophisticated dental, medical, and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents, and hobbies of the life beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the life beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the life beneficiary. The trustee or co-trustee, in his or her discretion, may make payments from time to time for a person to accompany the life beneficiary on vacations and outings and for the transportation of the life beneficiary or of friends and relatives of the life beneficiary to visit the life beneficiary. Expenditures shall not be made for the primary support or maintenance of the life beneficiary, including basic food, shelter, and clothing, if, as a result the Life Beneficiary would no longer be eligible to receive public benefits or assistance to which the life beneficiary would otherwise be entitled. Any net income which is not used shall be added annually to the principal.

(7) In the event that the trustees and the co-trustee shall be unable to agree either on the amount of income or principal, or income and principal, to be used or the benefits to be provided, then either the trustees or the co-trustee may request that the matter be resolved by arbitration. The requesting party shall send a written request for arbitration to the responding party and shall in the request set forth the name, address, and telephone number of the requesting party's arbitrator. The responding party shall, within 10 days, after receipt of the request for arbitration, set forth in writing to the requesting party the name, address, and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the commissioner of the department. If the two designated arbitrators are unable to agree upon a third arbitrator within 10 days after the responding party has identified the responding party's arbitrator, then the commissioner shall

designate the third arbitrator by written notice to the requesting and responding parties' arbitrators. The three arbitrators shall meet and render a decision within 30 calendar days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of the party's arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties.

(8) Any acting co-trustee, other than the donor may, for good and sufficient reason upon written notice to the trustees, withdraw all of the current fair market value of the principal balance of the life beneficiary's account in the AFT Trust as determined on the date of revocation not to exceed the contribution to the amount of the life beneficiary. In no event shall a co-trustee be entitled to withdraw only a portion of the current fair market value of the life beneficiary's account in the AFT Trust. In the event of withdrawal, the applicable portion, as set forth below, of the current fair market value of the principal balance of the life beneficiary's account in the AFT Trust shall be distributed to the successor trust and the balance of the life beneficiary's account in the AFT Trust, together with any undistributed net income or principal, shall be distributed to the AFT Charitable Trust.

(9) If a life beneficiary for whose benefit a contribution has been made to the AFT Trust ceases to be eligible to participate in the AFT Trust, and neither the donor nor the then acting co-trustee revokes or withdraws all of the contribution, then the board of trustees may, by written notice to the donor or acting co-trustee, terminate the AFT Trust as to such life beneficiary. Upon termination, the board of trustees shall distribute the applicable portion, as set forth below, of such life beneficiary's account in the AFT Trust to the successor trustee of the successor trust to be held, administered, and distributed by the successor trustee in accordance with the successor trust described in subdivision (11) of this subsection.

(10) At the time of withdrawal by the co-trustee pursuant to subdivision (8) of this subsection or termination pursuant to subdivision (9) of this subsection of a life beneficiary's account from the AFT Trust, if either the life beneficiary has not received any benefits provided by the use of AFT Trust income or principal, or the life beneficiary has received benefits provided by the use of AFT Trust income or principal for a period of not more than five years from the date a contribution has first been made to the AFT Trust for the life beneficiary, then an amount equal to 90 percent of the current fair market value of the principal balance of the life beneficiary's account in the AFT Trust as determined on the date of withdrawal or on the date the life beneficiary ceases to be eligible to participate in the ATF Trust shall be distributed to the successor trust, and the balance of the life

beneficiary's account in the AFT Trust, shall be distributed to the AFT Charitable Trust. At the time of withdrawal by the co-trustee or termination as provided above, if the life beneficiary has received any benefits provided by the use of AFT Trust income or principal for a period of more than five years from the date a contribution has first been made to an account in the AFT Trust for the life beneficiary, then an amount equal to 75 percent of the current fair market value of the principal balance of the life beneficiary's account in the AFT Trust as determined on the date the life beneficiary ceases to be eligible to participate in the AFT Trust shall be distributed to the successor trust, and the balance of the life beneficiary's account in the AFT Trust shall be distributed to the AFT Charitable Trust.

(11) If the life beneficiary dies before receiving any benefits provided by the use of AFT Trust income or principal, then an amount equal to the current fair market value of the principal balance of the life beneficiary's account in the AFT Trust, as determined on the date of death, not to exceed the contribution for the life beneficiary less payment of funeral and burial costs of the life beneficiary, shall be distributed to the person or persons as the donor has designated. Any undistributed net income or principal shall be distributed to the AFT Charitable Trust. If at the time of death of the life beneficiary, the life beneficiary has received benefits provided by the use of AFT Trust income or principal, or both, then, after payment of funeral and burial costs of the life beneficiary, an amount equal to 75 percent of the current fair market value of the principal balance of the life beneficiary's account in the AFT Trust, as determined on the date of death, shall be distributed to the person or persons as the donor has designated, and the balance of the life beneficiary's account in the AFT Trust, shall be distributed to the AFT Charitable Trust.

(12) Upon receipt of a notice of withdrawal from a designated co-trustee, other than the donor, and a determination by the board of trustees that the reason for the withdrawal is good and sufficient or upon the issuance of a notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the successor trustee of the successor trust the applicable portion of the current fair market value of the life beneficiary's account in the AFT Trust. The successor trustee of the successor trust shall hold, administer, and distribute the principal and income of the successor trust, in the discretion of the successor trustee, for the maintenance, support, health, education, and general well-being of the life beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the life beneficiary's basic support to which the life beneficiary may be entitled and to increase the quality of the life beneficiary's life by providing him or her with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include,

but are not limited to, more sophisticated dental, medical, and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents, and hobbies of the life beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the life beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the life beneficiary. The successor trustee, in his or her discretion, may make payments from time to time for a person to accompany the life beneficiary on vacations and outings and for the transportation of the life beneficiary or of friends or relatives of the life beneficiary to visit the life beneficiary. Any undistributed income of the successor trust shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the life beneficiary, including basic food, shelter, and clothing, if, as a result, the life beneficiary would no longer be eligible to receive public benefits or assistance to which the life beneficiary would otherwise be entitled. After the death and burial of the life beneficiary, the remaining balance of the successor trust shall be distributed to the person or persons as the donor has designated.

(d) The documents establishing the AFT Charitable Trust shall include and be limited to the following:

(1) The AFT Charitable Trust shall be a charitable trust under the United States Internal Revenue Code and shall be administered as part of the AFT Trust, but as a separate account. The income attributable to the AFT Charitable Trust shall be used to provide benefits for individuals who have an impairment and who are eligible for services provided by or through the department. The individuals to be beneficiaries of the AFT Charitable Trust shall be recommended to the board of trustees by the department. The board of trustees and the department shall agree annually on the amount of AFT Charitable Trust income to be used to provide benefits and the nature and type of benefits to be provided through the department for each identified beneficiary of the AFT Charitable Trust while maintaining the individual's eligibility for government entitlement funding. Any income of the AFT Charitable Trust not used shall be added annually to the principal.

(2) The board of trustees shall accept contributions to the AFT Charitable Trust from any source and shall comply with all rules and regulations under the United States Internal Revenue Code that govern the acceptance of charitable contributions.

Section 6. (a) No life beneficiary shall have any vested or property rights or interests in the AFT Trust, nor shall any life

beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of the AFT Trust nor shall the income or principal be or any interest of any life beneficiary thereunder be liable for any debt incurred by the life beneficiary, nor shall the principal or income of the AFT Trust Fund be subject to seizure by any creditor of any life beneficiary under any writ or proceeding in law or in equity.

(b) Except for the right of a donor other than a donor or a donor's spouse who is a life beneficiary, to revoke any contribution made to the AFT Trust, pursuant to subdivision (5) of subsection (c) of Section 5 of this act, and the right of any acting co-trustee, other than the donor, to withdraw all or a portion of the contribution made to the account of a life beneficiary, pursuant to subdivision (8) of subsection (c) of Section 5 of this act, neither the donor nor any acting co-trustee has the right to sell, assign, convey, alienate, or otherwise encumber, for consideration or otherwise, any interest in the income or the principal of the AFT Trust, nor shall the income or the principal or any interest of any life beneficiary thereunder be liable for any debt incurred by the donor or any acting co-trustee, nor shall the principal or income of the AFT Trust be subject to seizure by any creditor of any donor or any acting co-trustee under any writ or proceeding in law or in equity.

Section 7. No trustee, co-trustee, or successor trustee serving pursuant to the provisions of this act shall at any time be liable for any mistake of law or fact, or of both law and fact, or errors of judgment, or for any loss sustained by the AFT Trust or AFT Charitable Trust, or by any life beneficiary, or by any other person, except through actual fraud or willful misconduct on the part of such trustee, co-trustee, or successor co-trustee.

Section 8. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:12 P.M.

Act No. 94-580

H. 105 – Rep. Freeman

AN ACT

To provide that certain adults having control of a residence shall not allow an open house party to continue in certain instances; to provide exceptions; and to provide penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act, the following words have the following meanings:

(1) **ADULT.** A person who, pursuant to state law, may possess alcoholic beverages.

(2) **ADULT HAVING CONTROL OF A RESIDENCE.** An adult who has sanctioned an open house party and who is in attendance.

(3) **ALCOHOLIC BEVERAGE.** The meaning ascribed in Section 28-3-1, Code of Alabama 1975.

(4) **CONTROLLED SUBSTANCE.** The meaning ascribed in Section 20-2-2, Code of Alabama 1975.

(5) **OPEN HOUSE PARTY.** A social gathering at a residence.

(6) **REASONABLE ACTION.** The act of ejecting a person from a residence or requesting law enforcement officials to eject a person from a residence.

(7) **RESIDENCE.** A home, apartment, condominium, country club, motel, hotel, or any other unit designed for dwelling.

Section 2. No adult having control of any residence, who has authorized an open house party at the residence and is in attendance at the party, shall allow the open house party to continue if all of the following occur:

(1) Alcoholic beverages or controlled substances are illegally possessed or illegally consumed at the residence by a person under the age of 21.

(2) The adult knows that an alcoholic beverage or controlled substance is in the illegal possession of or is being illegally consumed by a person under the age of 21 at the residence.

(3) The adult fails to take reasonable action to prevent illegal possession or illegal consumption of the alcoholic beverage or controlled substance.

Section 3. Any adult who violates this act shall be guilty of a Class B misdemeanor.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:13 P.M.

Act No. 94-581

H. 7 – Rep. Campbell

AN ACT

Providing for the imposition of additional penalties on a person committing a crime and motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature finds and declares the following:

(1) It is the right of every person, regardless of race, color, religion, national origin, ethnicity, or physical or mental disability, to be secure and protected from threats of reasonable fear, intimidation, harassment, and physical harm caused by activities of groups and individuals.

(2) It is not the intent, by enactment of this act, to interfere with the exercise of rights protected by the Constitution of the State of Alabama or the United States.

(3) The intentional advocacy of unlawful acts by groups or individuals against other persons or groups and bodily injury or death to persons is not constitutionally protected when violence or civil disorder is imminent, and poses a threat to public order and safety, and such conduct should be subjected to criminal sanctions.

Section 2. The purpose of this act is to impose additional penalties where it is shown that a perpetrator committing the underlying offense was motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability.

Section 3. A person who has been found guilty of a crime, the commission of which was shown beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, shall be punished as follows:

(1) Felonies:

a. On conviction of a Class A felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the sentence shall not be less than 15 years.

b. On conviction of a Class B felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the sentence shall not be less than 10 years.

c. On conviction of a Class C felony that was found to have been motivated by the victim's actual or perceived race, color, religion,

national origin, ethnicity, or physical or mental disability, the sentence shall not be less than two years.

d. For purposes of this subdivision, a criminal defendant who has been previously convicted of any felony and receives an enhanced sentence pursuant to this act is also subject to enhanced punishment under the Alabama Habitual Felony Offender Act, Section 13A-5-9, Code of Alabama 1975.

(2) Misdemeanors:

On conviction of a misdemeanor which was found beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the defendant shall be sentenced for a Class A misdemeanor, except that the defendant shall be sentenced to a minimum of three months.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:14 P.M.

Act No. 94-582

H. 477 – Rep. Campbell

AN ACT

To amend Section 37-2-84, Code of Alabama 1975, relating to the authority of the Department of Transportation to abandon or discontinue a state highway or a street on a state highway route crossing the tracks or right-of-way of a railroad; to further provide for the authority of the Department of Transportation to abandon, close, and discontinue a portion of any municipal or county highway, street, or right-of-way crossing the tracks or right-of-way of any railroad when the crossing is dangerous, redundant, or it is in the interest of public safety that the crossing be closed.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-2-84, Code of Alabama 1975, is amended to read as follows:

“§37-2-84.

“(a) The Department of Transportation is given authority and power to abandon and discontinue any portion of a state highway, or street on a state highway route with the approval of the city council or governing body of any municipality, crossing the tracks or right-of-way of any railroad or street railway within the state, and to close the grade crossing, whenever in the judgment of the department the grade crossing has ceased to be necessary for the public as a part of

any state highway, because of relocation of the highway, or because of the construction of an underpass or overpass, or other provision made for the elimination of the grade crossing. Whenever the department orders the abandonment of a portion of the highway or street and the closing of a grade crossing, it shall enter its order providing therefor in the department minutes. Notice in writing of the abandonment and discontinuance of the portion of the highway or street and the closing of the grade crossing shall be given by the department by posting a notice on each side of the railroad or street railway at the grade crossing for a period of 30 days. Thereafter, the railroad or street railway shall not be required to maintain the grade crossing for use as a public highway or street.

“(b) Notwithstanding any other provision of law, the Department of Transportation may abandon, close, and discontinue a portion of a municipal or county highway, street, or right-of-way crossing the tracks or right-of-way of any railroad within the state whenever in the judgment of the department the grade crossing is dangerous or redundant or the enhancement of public safety resulting from the closing outweighs any inconvenience caused by rerouting the vehicular traffic. In the event the closing is deemed by the department to cause substantial inconvenience to vehicular traffic or materially impair the provision of police, fire, or ambulance service, the department may also order a relocation of the crossing or the building of an alternate crossing at another location. If the department orders the relocation of the crossing or the building of an alternate crossing, the crossing shall be built at no costs to the municipality or county unless the municipality or county enters into an agreement to share in the costs of the relocation of the crossing or the building of an alternate crossing.

“(c) Prior to issuing the order to close a crossing, the Department of Transportation shall give written notice of intention to close the crossing to the municipality or county in the event it is a municipal or county road or street. In addition, the department shall publish legal notice of intention to close the crossing in a newspaper of general circulation in the county once a week for three consecutive weeks prior to issuance of the order of closure. The notice shall state the procedure to request a hearing prior to the closure. Any citizen who uses a crossing or who owns property abutting a crossing or the county or municipality may give a notice in writing to the Department of Transportation requesting a hearing prior to the closing. Upon request for a hearing, the department shall conduct a public hearing in the municipality or county in which the crossing is located by giving at least 10 days' notice to the person or persons requesting the hearing and to the municipality or county in which the crossing is located. At the public hearing, a department official designated by the Director of Transportation shall hear all persons interested and shall receive any written statements from

interested persons. The official conducting the hearings shall file a written report with the director together with all written statements filed by persons attending the hearing and shall make a written recommendation to the director concerning the proposed closing. After consideration of the report, the recommendation and the statements submitted therewith, the director shall enter an order closing the crossing or requiring the crossing to remain open or requiring the crossing to be relocated within the judgment of the director. The order of the director shall be final.

“(d) Upon the issuance of the order by the Director of Transportation, it is the responsibility of the railroad or railroads involved to physically remove the crossing from the tracks and it is the responsibility of the municipality or county where the crossing is located to install any signs or barricades which might be appropriate. The costs of any signs or barricades shall be shared equally by the Department of Transportation and the city or county where the crossing is located.

“(e) Whenever a railroad crossing or any highway, street, or right-of-way crossing the tracks or right-of-way of any railroad is closed, abandoned, or discontinued pursuant to this section, that action shall not affect any right-of-way for the lines, structures, equipment, and facilities of any utility as defined in Title 37, which cross the tracks or right-of-way of the railroad at the crossing or along, over, or through the highway, street, or right-of-way abandoned.

“(f) The provisions of subsections (a) through (d) of this section shall be the exclusive method of closing railroad grade crossings located on any public drive, street, road, or highway in this state.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:15 P.M.

Act No. 94-583

H. 144 – Rep. Biddle

AN ACT

Authorizing the Department of Mental Health and Mental Retardation to use the Department of Public Safety to secure criminal history background information through the National Crime Information Center (NCIC) on certain persons the Department of Mental Health and Mental Retardation employs or contracts with, or both, to be direct care providers.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) When used in this act, the following words and terms shall have the following meanings:

(1) **CRIMINAL HISTORY BACKGROUND INFORMATION.** Any information collected and stored in the criminal record repository of the National Crime Information Center (NCIC) computer reflecting the result of an arrest, detention, or initiation of a criminal proceeding by criminal justice agencies, including, but not limited to, arrest record information, fingerprint cards, correctional induction and release information, identifiable descriptions, and notations of arrests, detention, indictments, or other formal charges. The term shall not include analytical records or investigative reports that contain criminal intelligence information or criminal investigation information.

(2) **DIRECT CARE PROVIDER.** A psychiatrist, medical doctor, psychologist, social worker, community service specialist, therapist, nurse, mental health worker, foster care provider, police officer, and any other employee or person who has direct contact with the clients and patients served by the Alabama Department of Mental Health and Mental Retardation pursuant to a contract with the department.

(b) Pursuant to Public Law 92-544 (86 Stat. 1115) and with the approval of the Attorney General of the United States, the Alabama Department of Mental Health and Mental Retardation may use the Department of Public Safety to secure criminal history background information through the National Crime Information Center (NCIC) on persons with whom the Department of Mental Health and Mental Retardation employs or contracts with, or both, to be direct care providers to clients and patients. The information shall be provided by the Department of Public Safety to the Department of Mental Health and Mental Retardation pursuant to Section 32-2-61, Code of Alabama 1975. Any request by the Department of Mental Health and Mental Retardation for the information shall comply with the applicable administrative rules and procedures of the Department of Public Safety.

Section 2. The Department of Mental Health and Mental Retardation shall promulgate administrative rules and procedures to carry out this act which do not infringe on the constitutional rights of any person affected by this act, including those necessary to safeguard the confidentiality of any criminal history background information requested and secured under this act.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:16 P.M.

Act No. 94-584

H. 345 – Rep. Turnham

AN ACT

To amend Sections 40-12-240 and 40-12-264, Code of Alabama 1975, to add new definitions; to provide further for the number available and the fee payable for a demonstration license plate; to provide for the creation of manufacturer license plates, and levying a fee for manufacturer license plates; to distribute proceeds of the fees; and to provide penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 40-12-240 and 40-12-264, Code of Alabama 1975, are amended to read as follows:

“§40-12-240.

“For the purpose of this article, the following terms shall have the respective meanings ascribed by this section:

“(1) **ESTABLISHED PLACE OF BUSINESS.** A place actually occupied either continuously or at regular periods at or from which a business or a part thereof is transacted.

“(2) **FARM TRACTOR.** Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements designed and used for agricultural purposes and only incidentally moved upon public highways.

“(3) **FULL-TIME SALESPERSON.** A person whose principal income is derived from selling motor vehicles for a licensed dealer and the income is reflected on the dealership payroll for the withholding of income taxes on income derived from motor vehicle sales.

“(4) **GROSS VEHICLE WEIGHT.** Whenever used in Section 40-12-248, or elsewhere in this section, the empty weight of the truck or truck tractor, plus the heaviest load to be carried and, in the case of combinations, the empty weight of the heaviest trailer with which the power unit shall be placed in combination, plus the heaviest load to be carried. The intent being that all licenses which are levied on the basis of the ‘gross vehicle weight’ of the vehicle plus the heaviest load to be carried, as ‘gross vehicle weight’ is hereinabove, defined, shall be collected and enforced uniformly.

“(5) **JITNEY BUS.** A motor vehicle engaged in the business of carrying passengers for hire over, along, and upon a definite or substantially fixed route or routes, in the incorporated limits of any municipality or within 10 miles thereof, except vehicles operated in conjunction with or in lieu of a street railway system or duly franchised bus operation authorized by the governing body of a city and the Alabama Public Service Commission. All motor vehicles that are

excepted are subject to the license tax specified in subsection (a) of section 40-12-246.

“(6) **MOTORCYCLE**. Every motor vehicle designed to travel on not more than three wheels in contact with the ground, including motor scooters and motor bicycles, but not including farm tractors.

“(7) **MOTOR VEHICLE**. Every vehicle which is self-propelled, every vehicle which is propelled by electric power, and every vehicle that is drawn by a self-propelled vehicle, including every trailer and semitrailer.

“(8) **MOTOR VEHICLE DEALER**. Every person currently licensed under Section 40-12-390, et. seq. as amended, as a new motor vehicle dealer, as a used motor vehicle dealer, or licensed under Section 40-12-169 and engaged in the business of buying, selling, or exchanging of trailers, semitrailers, or manufactured homes.

“(9) **MOTOR VEHICLE MANUFACTURER**. Every person engaged in the business of constructing or assembling vehicles or manufactured homes with manufacturing facilities located within this state.

“(10) **MOTOR VEHICLE REBUILDER**. Any person engaged in the business of making or causing to be made extensive repairs, replacements, or combinations of different motor vehicles to the extent of extinguishing the identity of the original vehicle to the extent that the finished motor vehicle is required to be assigned a new identification to be issued by the Department of Revenue under Chapter 8 of Title 32.

“(11) **MOTOR VEHICLE RECONDITIONER**. Any person engaged in the business of refurbishing, repairing, or replacing damaged parts of motor vehicles for the purpose of preparing the vehicle for resale under the same identification and identity that the vehicle bore before the refurbishing.

“(12) **MOTOR VEHICLE WHOLESALER**. Any person engaged in the business of buying, selling, or exchanging motor vehicles at wholesale to motor vehicle dealers, as defined in this article, and not to the public.

“(13) **MUNICIPALITY**. Any incorporated city or town in this state.

“(14) **NONRESIDENT**. Every person who is not a resident of this state.

“(15) **OWNER**. Any of the following:

“a. A person or persons holding the legal title to a motor vehicle.

"b. The mortgagor or conditional vendee of a vehicle that is the subject of a chattel mortgage or an agreement for the conditional sale thereof or other like agreement with the right of purchase upon performance of the conditions stated in the agreement and with the immediate right of possession vested in the mortgagor or conditional vendee.

"c. The lessee of a vehicle owned by the United States of America or any of its agencies or instrumentalities.

"(16) PERSON. Every individual, firm, partnership, association, estate, trust, or corporation, and the receiver, assignee, agent, administrator, or other representative of any of them.

"(17) PRIVATE PASSENGER AUTOMOBILE. Every motor vehicle designed primarily for the transportation of nine persons or less except the following:

"a. Motorcycles.

"b. Motor vehicles used in the transportation of persons for hire.

"c. Trailers or semitrailers.

"d. Self-propelled campers or house cars including every motor vehicle of the type usually referred to as a bus which is owned and operated by an individual for personal or private use and not for hire, rent, or compensation. Motor trucks of the type commonly known as 'pickups' or 'pickup trucks,' regardless of the use made of any such motor trucks and regardless of whether the owner thereof owns or has access to any other mode of transportation, shall not be deemed to constitute a private passenger automobile.

"(18) PUBLIC HIGHWAY. Every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct, or trestle, located either within a municipality or in unincorporated territory, and laid out or erected by the public or dedicated or abandoned to the public or intended for use by or for the public. The term 'public highway' shall apply to and include driveways upon the grounds of universities, colleges, schools, and institutions, but shall not include private driveways, private roads, or private places not intended for use by the public.

"(19) SELF-PROPELLED CAMPERS OR HOUSE CARS. A self-propelled motor vehicle designed and used primarily for mobile living quarters. The living quarters on self-propelled campers or house cars are constructed as an integral part of the motor vehicle and are not detachable. Self-propelled campers or house cars are commonly known as motor homes.

"(20) SEMITRAILER. Every vehicle without motive power designed for carrying persons or property and for being drawn by a

motor vehicle and so constructed that some part of its weight and some part of its load rest upon or are carried by another motor vehicle.

“(21) **STATE.** A state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.

“(22) **TAX YEAR.** The tax year of this state, being the 12-month period commencing on each October 1.

“(23) **TRAILER.** Every vehicle without motive power designed to carry persons or property wholly on its own structure and to be drawn by another motor vehicle.

“(24) **TRAVEL TRAILER.** A vehicle without motive power, designed and constructed as a camping vehicle or a temporary dwelling, living, or sleeping place drawn by a private passenger automobile or a pickup truck, but not including folding or collapsible camping trailers included within the definition of utility trailer, nor manufactured homes as defined in Section 40-12-255(n).

“(25) **TRUCK.** Every self-propelled motor vehicle designed and used primarily for the transportation of property in or upon its own structure, every self-propelled motor vehicle of the types known as ‘campers’ and ‘house cars’, and every vehicle of the type commonly called a wrecker, which is used to move disabled motor vehicles for repair, storage, and other purposes.

“(26) **TRUCK TRACTOR.** Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicles and load so drawn.

“(27) **UTILITY TRAILER.** A trailer primarily designed to be drawn by a passenger car or pickup truck, including luggage trailers, folding or collapsible camping trailers, and other small trailers of similar size and function, but shall not include boat trailers.

“(28) **VEHICLE.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by muscular power or used exclusively upon rails or tracks.

“All references in this article to the judge of probate shall be deemed to include the commissioner of revenue, license commissioner, or other county official designated by law to register motor vehicles, issue license plates, and perform other duties in connection with motor vehicle licenses.”

“§40-12-264.

“(a) A purchaser of a new or used motor vehicle may be granted a grace period of 10 days from date of purchase in which to procure license tags.

“(b) Effective October 1, 1994, a motor vehicle dealer who has a current dealer license as required by Sections 40-12-51 and 40-12-391, or Section 40-12-169, may purchase dealer license plates at a cost of seven dollars (\$7) per dealer plate. The net proceeds of the sale of license plates are continuously appropriated to the Department of Transportation for their general operation fund. The number of dealer license plates to be acquired shall be determined by the combination of the number of full-time salespersons of a dealership and the number of motor vehicles sold at retail during the previous license year. This schedule is as follows:

“(1) Licensed motor vehicle dealers with annual retail sales of more than four motor vehicles, and less than 50 motor vehicles, may procure up to a maximum of three dealer license plates regardless of the number of salespersons.

“(2) Licensed motor vehicles dealers with annual retail sales of 50 motor vehicles or more may procure a maximum of two dealer license plates for each full-time salesperson of a dealership.

“(3) A licensed motor vehicle wholesaler, not otherwise licensed as a motor vehicle dealer, motor vehicle rebuilder, or motor vehicle reconditioner, may procure a maximum of five dealer license plates if the number of wholesale sales made during the previous license year was more than four motor vehicles and less than 50; and for each additional unit of 50 sales for the previous license year secure an additional dealer license plate; provided, the maximum number of dealer license plates that may be obtained is 10.

“(4) A licensed motor vehicle rebuilder or a licensed motor vehicle reconditioner, not otherwise licensed as a motor vehicle dealer or motor vehicle wholesaler, may procure a maximum of five dealer license plates.

“(5) A licensed motor vehicle dealer who has been in operation less than one year shall provide a reasonable estimate of the number of motor vehicles to be sold during the current license year and may procure dealer license plates according to the schedule and category for motor vehicle dealers shown above. After one full year of operation and for each license year thereafter, dealer license plates shall be procured based on the actual number of motor vehicles sold at retail during the previous license year and the number of full-time salespersons of a dealership according to the schedule and category above.

“(c) A licensed motor vehicle dealer may use dealer license plates on vehicles owned by the dealership and being held for resale, and

dealer license plates may be used in cases where the vehicle owner has entered into a consignment sales contract with the dealer. Dealer license plates shall not be used on vehicles that are utilized by the dealership as rental or lease vehicles, tow trucks, service trucks, and other service vehicles. Notwithstanding the foregoing, the dealership owner and full-time salespersons of a dealership may drive dealership-owned vehicles displaying dealer license plates at any time for any business purpose, including travel to and from home. Dealer license plates may be used to transport dealership-owned vehicles or to deliver a customer purchased vehicle. A prospective purchaser may make demonstrations of dealership-owned vehicles displaying dealer license plates to his or her own satisfaction without the motor vehicle dealer's representative being in attendance. A prospective purchaser shall be limited to 72 hours of use. All automobiles on temporary loan from a motor vehicle dealer to a high school for the purpose of student driver education shall be considered dealer demonstrator automobiles and may be issued an additional dealer license plate for each vehicle loaned to the student program. Dealer license plates issued for use on high school driver education vehicles shall be surrendered and returned to the official who issued the plates when the vehicles are returned to the dealership.

"(d) Licensed motor vehicle dealers selling trucks or truck tractors with more than two axles on the power unit or a gross weight exceeding 26,000 pounds shall allow prospective purchasers to use dealer license plates for one payload trip only, and that use shall not exceed 72 hours. The dealer shall provide the prospective purchaser a permit fully describing the vehicle by make, model, year, and vehicle identification number. The permit shall contain the complete name and address of the dealership and of the prospective customer and shall clearly indicate the date and time the permit was issued. The permit and dealer license plate shall be issued only for demonstration purposes, and shall not be issued by the dealer when a vehicle is loaned or rented to an operator for any other purpose.

"(e) A licensed motor vehicle wholesaler may use dealer license plates on vehicles being offered for sale to licensed motor vehicle dealers. Dealer license plates may be used by the wholesaler to display, test, demonstrate, or transport vehicles within the wholesale inventory. Dealer license plates shall not be used on service vehicles owned by the wholesaler.

"(f) A licensed motor vehicle rebuilder or motor vehicle recon-ditioner may use dealer license plates in accordance with subsection (a) of Section 32-8-87.

"(g) Any person acquiring dealer license plates as provided by this section shall be subject to audit by the Department of Revenue to determine the validity of the information contained in the dealer

license plate applications, including the names and number of full-time salespersons, the number of motor vehicles sold at retail and at wholesale during the previous license year, and the number of dealer license plates procured. Any person who willfully provides a false statement on an application for dealer license plates shall be subject to a penalty imposed by the department of fifty dollars (\$50) for each dealer license plate falsely acquired and each such tag shall be forfeited. The licensee may request an appeal under the provisions of Chapter 2A of this Title 40 for a forfeited dealer license plate.

“(h) An additional administrative fee of three dollars (\$3) shall be collected for each dealer license plate. The proceeds of the fee are continuously appropriated to the Department of Revenue for the sole purpose of enforcing the dealer licensing laws and the enforcement of the use of dealer license plates in accordance with this section, including salaries and the cost of operation of the department for the purpose of enforcing the dealer licensing laws and enforcement of the use of dealer plates for demonstration purposes. The expenditure of the sums appropriated shall be budgeted and allotted pursuant to Article 4 of Chapter 4 of Title 41, and limited to the amount appropriated to defray the expenses of enforcing the dealer licensing laws for each fiscal year, incident to the administration of this act.

“(i) Any manufacturer of private passenger automobiles, trucks, truck tractors, trailers, or manufactured homes who has manufacturing facilities located in this state, may procure license plates, at a cost of twenty-five dollars (\$25) per plate. The word ‘manufacturer’ shall appear on the license plates. The license plates may be used for transporting and testing new vehicles or manufactured homes owned by the manufacturer.

“(j) The proceeds of the fees levied by subsections (b), (h), and (i) shall not be subject to proration.

“(k) Any person to whom license plates are issued under this section, upon forfeiture of his or her license under Section 40-12-390 et. seq., or upon discontinuing business, shall surrender to the Department of Revenue all license plates so issued.

“(l) Dealer or manufacturer license plates may not be used in lieu of regular issued license plates as a means of avoiding the registration and ad valorem tax requirements of Chapter 12, Title 40, Code of Alabama 1975. Any person who willfully violates this section of law shall be subject to a Department of Revenue penalty of not less than one hundred dollars (\$100) and not more than three hundred dollars (\$300) for each violation.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective on October 1, 1994, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:17 P.M.

Act No. 94-585

H. 110 – Reps. Butler, Sanderford, Haney,
Freeman, Hall (A), McKee,
Mikell, Powell, Hooper

AN ACT

Authorizing the county commission of any county with a Class III municipality to prohibit, by ordinance, topless, bottomless, or nude dancing for monetary consideration and to prescribe penalties to enforce the ordinance.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission of any county in which a Class III municipality is located may pass an ordinance prohibiting topless, bottomless, or nude dancing for monetary consideration within the boundaries of the county. The ordinance shall be enforced by the sheriff of the county.

Section 2. A conviction for a violation of an ordinance passed pursuant to Section 1 of this act shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) and imprisonment in the county jail for not more than six months.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:20 P.M.

Act No. 94-586

H. 248 – Rep. Johnson

AN ACT

To authorize the Department of Revenue to enter into the International Fuel Tax Agreement as mandated under the Federal Intermodal Surface Transportation Efficiency Act of 1991; to amend Section 40-17-150, Code of Alabama 1975, to provide

for the recovery of administrative costs incurred in issuing identification markers; to appropriate funds to the Department of Revenue; and to repeal Section 40-17-151, Code of Alabama 1975, relating to sales by distributors.

Be It Enacted by the Legislature of Alabama:

For the purpose of this act, the following words shall have the following meanings:

- (1) **AGREEMENT.** The International Fuel Tax Agreement.
- (2) **BASE JURISDICTION.** The member jurisdiction where qualified motor vehicles are based for vehicle registration purposes.
- (3) **COMMISSIONER.** The Commissioner of the Department of Revenue.
- (4) **DEPARTMENT.** The Department of Revenue.
- (5) **IN-JURISDICTION DISTANCE.** The total number of miles or kilometers operated by a registrant's/licensees's qualified motor vehicles within a jurisdiction including miles operated under an International Fuel Tax Agreement temporary permit.
- (6) **JURISDICTION.** Any of the states of the United States, the District of Columbia, or a state or province of a foreign country or a territory or possession of either the United States or a foreign country.
- (7) **LICENSEE.** A person who holds a valid International Fuel Tax Agreement license issued by the base jurisdiction, as evidenced by an identification marker as defined under Section 40-17-150(a), Code of Alabama 1975.
- (8) **MEMBER.** A jurisdiction belonging to the International Fuel Tax Agreement, or other reciprocal agreements entered into on behalf of this state.
- (9) **MOTOR FUEL.** Gasoline, diesel fuel, and any other inflammable liquid or substance by whatever name it may be known and sold, the use of which is as a fuel for the propulsion of motor vehicles.
- (10) **MOTOR VEHICLE.** A motor vehicle designed, or maintained for transportation of persons or property, except recreational vehicles, and which meets any of the following:
 - a. Has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 12,000 kilograms.
 - b. Has three or more axles regardless of weight.
 - c. Is used in combination, when the weight of the combination exceeds 26,000 pounds or 12,000 kilograms gross vehicle or registered gross vehicle weight.
- (11) **RECREATIONAL VEHICLE.** Vehicles such as motor homes, pickup trucks with attached campers, and buses when

used exclusively for personal pleasure by an individual, and not used in connection with any business endeavor.

Section 2. (a) Notwithstanding any other provisions of this law, the Commissioner of the Department of Revenue is authorized to enter into reciprocal agreements on behalf of this state with the duly authorized representatives of any of the states of the United States, the District of Columbia, or a state or province of a foreign country or a territory or possession of either the United States or a foreign country providing for the uniform administration of motor fuels use taxation laws with respect to motor vehicles operated in multiple member jurisdictions.

(b) In exercising the authority granted by this act, the commissioner is expressly authorized and empowered to enter into and to become a member of the International Fuel Tax Agreement or any other designation that may, from time to time, be given to that plan, developed pursuant to the Federal Intermodal Surface Transportation Efficiency Act of 1991.

(c) The commissioner is authorized to promulgate and to enforce reasonable rules and regulations as may be necessary to carry out the International Fuel Tax Agreement or any other agreement entered into under the authority of this act.

(d) If the commissioner enters into the International Fuel Tax Agreement or into any other agreement under the authority of this act, and if the provisions set forth in the International Fuel Tax Agreement or other agreements are different from the provisions prescribed by this code or any rules or regulations promulgated by the commissioner pursuant to the authority granted hereunder to the commissioner, then the agreement provisions shall prevail.

(e) Any agreement entered into pursuant to this act shall be stated and agreed to in writing and shall be filed with the commissioner before it becomes effective. A current copy of any such agreement shall be maintained by the department.

Section 3. An agreement pursuant to this act may provide for determining the base state for users, user's records requirements, audit procedures, exchange of information, persons eligible for licensing, define qualified motor vehicles, determine bonding requirement, specify reporting requirements and periods, define uniform penalty and interest rates for late reporting, determine methods for the collecting and forwarding of motor fuel taxes and penalties to another jurisdiction, and may include other provisions to facilitate the administration of the agreement.

Section 4. The department may collect any motor fuel taxes and fees due the members of the agreement under the provisions therein, and may deposit taxes and fees collected into an escrow

account, until the time as the taxes and fees can be distributed to the respective members.

Section 5. (a) The proceeds of the tax herein levied accruing to the State of Alabama, less the actual costs of collection, shall be paid by the department to the State Treasurer for disbursement as follows:

(1) That portion of the tax that is attributable to the use of motor fuel subject to the gasoline tax shall be disbursed in the manner provided by law for the disbursement of the proceeds of the gasoline tax.

(2) That portion of the tax that is attributable to the use of motor fuel subject to the diesel fuel tax shall be disbursed in the manner provided by law for the disbursement of the proceeds of the diesel fuel tax.

(b) The cost of collection shall be the sum of money appropriated each year by law to the department with which to pay salaries and the cost of operation of the department related to the taxes collected pursuant to this act, which shall be deducted, as a first charge from the taxes collected pursuant to this act. The expenditure of the funds appropriated shall be budgeted and allotted pursuant to Article 4 of Chapter 4 of Title 41, Code of Alabama 1975, and shall be limited to the amount appropriated to defray the expenses of operating the department for each fiscal year related to the collection of this tax.

Section 6. The agreement pursuant to this act may provide for each state to audit the records of persons based in the state to determine if the motor fuel taxes due each state are properly reported and paid. Each state shall forward the findings of the audits performed on persons based in this state to each state in which the person has used taxable motor fuels. For persons who are not based in this state and who have used taxable motor fuel in this state, the department shall serve the audit findings received from another state in the form of an assessment on the person as though an audit was conducted by the department.

Section 7. Section 40-17-150 of the Code of Alabama 1975, is amended to read as follows:

“§40-17-150.

“(a) The commissioner shall provide by regulation for the issuance of an annual identification marker for every Alabama IFTA-based carriers’ qualified vehicles and the qualified vehicles from non-IFTA-member jurisdictions, as defined in the act amending this code section, for a fee based on administrative costs of administering the agreements pursuant to the act amending this

code section. The identification marker shall be in the form and of the size as the commissioner may prescribe.

“(b) The identification marker shall be attached or affixed to the vehicle in the place and manner prescribed by the commissioner so that the same is clearly displayed at all times.

“(c) The identification markers herein provided for shall be issued on an annual basis as of January 1 each year and shall be valid through the next succeeding December 31.

“(d) All identification markers issued by the commissioner shall remain the property of the state.

“(e) For tour buses, as defined in subdivision (10) of Section 40-19-1, the fee levied by this section (fuel identification marker fee or trip permit fee) and the motor carrier registration fee levied pursuant to paragraph a. of subdivision (5) of Section 37-3-32 shall be paid by a single payment which may be paid by check, money order, or other means as may be provided by regulation and shall be submitted to the Department of Tourism and Travel payable to the Department of Revenue.

“(f) The proceeds from the issuance of the identification marker fees collected shall accrue to the credit of, and be deposited in, the public road and bridge fund.

“(g) It shall be a violation of this article for a motor carrier to operate or cause to be operated in this state any motor vehicle as defined herein unless the motor vehicle displays the required identification marker in the manner designated by the commissioner; provided, that the commissioner by regulation may exempt from the requirement for displaying the identification marker such motor vehicles as urban and public transit motor vehicles or others if in his discretion they are clearly identifiable and the effective enforcement of this article will not suffer thereby.

“(h) In addition, the Commissioner of Revenue may authorize the operation of a motor vehicle without the identification marker required by issuing a trip permit, valid for not exceeding seven days, for a fee to be set by regulation based on administrative costs of administering the agreements pursuant to the act amending this code section payable in advance. Trip permits are to be obtained by motor carriers having only occasional or infrequent trips into and through the state. To be valid a trip permit must be supported by a valid invoice of current date showing that sufficient tax-paid fuel was purchased in the state to propel the vehicle for the number of miles it traveled over the highways of the state.

“(i) In order for the department to have sufficient time in which to prepare the identification markers for transmittal to the motor carrier, every motor carrier subject to this article shall, between the

dates of October 1 and November 15 of each year, furnish to the Department of Revenue an application, listing all motor vehicles operated by the motor carrier and for which an identification marker is required, giving for each vehicle the make, serial number, and type fuel used. The application shall be accompanied by a remittance in an amount sufficient to cover the fee or fees herein provided for.

“(j) Motor carriers acquiring additional motor vehicles after the date of November 15 of each year must obtain an identification marker for each motor vehicle before operating the motor vehicle over the streets and highways of this state.”

Section 8. Section 40-17-151 of the Code of Alabama 1975, is repealed.

Section 9. In addition to any and all other funds heretofore or hereafter appropriated, there is appropriated to the Department of Revenue from the taxes collected pursuant to this act for the fiscal year ending September 30, 1994, the sum of four hundred ninety-four thousand dollars (\$494,000) and for the fiscal year ending September 30, 1995, the sum of nine hundred eighty-five thousand dollars (\$985,000) as the costs of collection to implement and administer this act.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. All laws or parts of laws which conflict with this act are repealed.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:21 P.M.

Act No. 94-587

H. 398 – Rep. Haynes

AN ACT

Relating to Talladega College, Concordia College, and Selma University; granting certain persons employed by the colleges certain police powers; and amending Section 16-22-1, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-22-1, Code of Alabama 1975, is amended to read as follows:

“§16-22-1.

“The president or chief executive officer of any state college or university, the president or chief executive officer of the Alabama Institute for Deaf and Blind, the Presidents of Talladega College, Concordia College, and Selma University may appoint and employ one or more suitable persons to act as police officers to keep off intruders and prevent trespass upon and damage to the property of the college or university or of the institute. These persons shall be charged with all the duties and invested with all the powers of police officers.

“This section is cumulative.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:22 P.M.

Act No. 94-588

H. 443 – Rep. Zoghby

AN ACT

To amend Section 10-2A-221, Code of Alabama 1975, relating to the authority of certain foreign corporations to act as a fiduciary in Alabama, so as to permit a foreign corporation to act in a fiduciary capacity in this state without qualifying to do business in this state provided that the foreign corporation's home state grants authority to an Alabama corporation to serve in a like fiduciary capacity in the foreign corporation's home state; and to add the terms “personal representative” and “conservator” to the list of types of fiduciaries.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 10-2A-221 of the Code of Alabama 1975, is amended to read as follows:

“§10-2A-221.

“(a) Any foreign corporation may act in this state as trustee, personal representative, executor, administrator of any kind, guardian, conservator or in any other like or similar fiduciary capacity, whether the appointment is by law, will, deed, inter vivos trust, mortgage, deed of trust, court order or otherwise, without the necessity of complying with any law of this state relating to the qualification of foreign corporations to do business in this state or the licensing of foreign corporations to do business in this state and notwithstanding any

prohibition, limitation, or restriction contained in any other law of this state subject to the following conditions:

“(1) The foreign corporation is authorized to act in a fiduciary capacity, or capacities, in the state in which it is incorporated or, if the foreign corporation is a national banking association, in the state in which it has its principal place of business.

“(2) Any bank or other corporation organized under the laws of this state or a national banking association having its principal place of business in this state which is authorized to act in a fiduciary capacity in this state is authorized to act in a like fiduciary capacity in the other state without the necessity of complying with any law of the other state relating to the qualification of a foreign corporation to do business in the other state.

“(b) Nothing contained in this article shall be construed to prohibit or make unlawful any activity in this state by a bank or other corporation which is not incorporated under the laws of this state or, if a national bank, which does not have its principal place of business in this state which would be lawful in the absence of this article.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:23 P.M.

Act No. 94-589

H. 387 – Rep. Johnson

AN ACT

To amend Section 30-3-62, Code of Alabama 1975, relating to income withholding orders for support, to provide procedures by which income withholding orders may be terminated under certain circumstances without a hearing upon filing of an affidavit by the obligor, notice to the obligee, and issuance of an order.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 30-3-62, Code of Alabama 1975, is amended to read as follows:

“§30-3-62.

“(a) Section 8-5-21 to the contrary notwithstanding, and in addition to and independent of any other remedy provided by law for the

enforcement of support, the obligee, district attorney, or representative of the department of human resources may file with a court of this state, as defined in this article, a petition seeking an order of income withholding. Additionally, for all existing support orders issued in the state of Alabama that do not provide for income withholding and upon the filing of an application for support services by the obligee with the department, the department shall petition the court for an income withholding order pursuant to this section. The obligee, district attorney, or representative of the department shall file with the clerk of the court the following documents:

“(1) Three copies of a petition seeking the income withholding order, that include the name and address of both the obligor and obligee.

“(2) One certified copy and two additional copies of the original support order with all modifications thereof.

“(3) A sworn affidavit of the obligee, or a certified statement of the agency, of the arrearages, if any, and any assignment of support rights.

“(4) Two copies of a notice of the proposed income withholding. The notice shall advise the obligor that an income withholding order shall be issued by the court in accordance with this section.

“(b) The obligor shall be served by the methods authorized in the Alabama Rules of Civil Procedure with a copy of all the documents listed in subsection (a) of this section.

“(c) An income withholding order shall be issued by the court unless the obligor requests a hearing within 10 days of the date of service of the petition and notice. If the obligor requests a hearing, the hearing shall be held and a decision rendered within 45 days of the date of service of the petition and notice upon the obligor unless the obligee, district attorney, or representative of the department requests a continuation of the case to a later date or the court, on its own motion and for good cause shown, continues the case to a later date. An obligor may contest the issuance of an income withholding order under this section only on the basis of mistakes of fact. The income withholding order issued pursuant to this section may be issued by any court competent to adjudicate these proceedings, as that term is defined in this article, and shall be issued without the need for an amendment to the existing support order.

“(d) An order entered pursuant to this section shall recite the amount required to be withheld as continuing support for each month, the total amount of all accumulated arrearages, if any, and the amount required to be withheld for each month in order to satisfy the arrearage. The order shall require withholding from the

income due or becoming due the obligor at each pay period and payment to the clerk of the court or the department or its designee, whichever is appropriate, of the amounts ordered pursuant to this section. If the obligor's support obligation is required to be paid on a monthly basis and his or her pay periods are at more frequent intervals, the employer may withhold, at each pay period, amounts cumulatively sufficient to equal the total monthly arrearage due, if any, and the total monthly continuing support obligation and pay over to the clerk of the court or the department, or its designee, the amount withheld in accordance with subsection (b) of section 30-3-61. When payments are ordered made directly to the clerk of the court, it shall be the responsibility of the clerk to disburse the payments in accordance with the court's order.

"(e) Any order entered pursuant to this section shall be continuing and binding upon any employer upon whom it is served until further order of the court. A withholding order issued pursuant to this section shall not be served on the employer and shall not take effect unless the obligor is or becomes delinquent in a dollar amount equal to one month of support payments, the obligor requests that the withholding order take effect at an earlier date, or the court otherwise orders that the withholding order take effect at an earlier date.

"(f) In the event the obligor becomes delinquent in the support payments in a dollar amount equal to one or more month's support obligation, or at the time as the obligor wishes to have the income withholding served upon his or her employer, the obligee or the obligor may file with the clerk of the court a sworn affidavit stating the appropriate basis upon which service of the income withholding order is now being sought. Upon the filing of the affidavit and the payment of a docket fee in the same amount as is prescribed by section 12-19-75 for the filing of a garnishment proceeding, a copy of the withholding order issued pursuant to this section shall be served upon the employer pursuant to the Alabama Rules of Civil Procedure. A copy shall also be served upon the obligor by first class mail. The cost of such a filing shall not be prepaid if, upon the filing of an affidavit of substantial hardship, the obligee or obligor is found by the court to be incapable of prepaying the cost or if the affidavit is filed by the department or a representative of the department, but in those cases the cost of the filing shall be taxed as costs against the obligor at the time service of the order is requested and shall be withheld from the obligor's first pay period subjected to the income withholding order. Additionally, when service upon the employer is requested by means of certified mail, the actual cost of the service shall be prepaid in all cases at the time the service is requested.

"(g) When an income withholding order is entered pursuant to this section by a court other than the court which originally entered

the support order, a copy of the income withholding order shall be forwarded by the clerk of the court entering the order to the clerk of the court which entered the original support order. The clerk of the court which entered the original order of support shall also be notified whenever the income withholding order is served upon an employer and withholdings are to commence.

“(h) A withholding order issued under this section or Section 30-3-61 shall be promptly terminated when the obligor requests termination and withholding has not been terminated previously and subsequently initiated and there is a written agreement signed by both the custodial and absent parent, and in IV-D cases in which there is an assignment of support rights to the state, by the department, providing for an alternative arrangement as provided in subsection (c) of section 30-3-61. In those cases, income withholding shall be reinstated if the absent parent fails to make payments in the amount of one month’s support obligation or the absent parent requests immediate income withholding or the payee or the department requests that withholding be reinstated and the absent parent has failed to make a payment or payments on the date or dates due. A withholding order reinstated pursuant to this provision shall be permanent for the duration of the obligation for support, or until such time as the withholding order is modified or terminated pursuant to section 30-3-64 or section 30-3-65.

“(i) A withholding order issued under this section or Section 30-3-61 shall be terminated without the necessity of a hearing when the obligor files with the clerk of the court that issued the withholding order a sworn affidavit stating that all children subject to the order have reached the age of majority and that no arrearage is owed on the withholding order or a spousal support order or stating other conditions of termination as specified in subsection (h) of Section 30-3-62. Upon filing of the affidavit and the payment of the docket fee prescribed by Section 12-19-75 for the filing of a garnishment proceeding, a copy of the affidavit shall be served by first class mail upon the obligee and upon the Department when the case is a IV-D case. An order terminating income withholding shall be issued by the court unless the obligee or the department requests a hearing within 20 days of service of the affidavit. If the obligee or the department requests a hearing, the hearing shall be held and a decision rendered within 45 days of the date of service of the affidavit upon the obligee and the department, as appropriate, unless the obligor requests a continuation of the case to a later date or the court, on its own motion and for good cause shown, continues the case to a later date. The termination of the income withholding issued pursuant to this section may be issued without the need for a hearing except as specified in this section. A copy of the termination of income withholding order

issued pursuant to this section shall be served upon the employer pursuant to the Alabama Rules of Civil Procedure. A copy shall also be served upon the obligee and the department as appropriate by first class mail. Additionally, when service upon the employer is requested by means of certified mail, the actual cost of the service shall be prepaid in all cases at the time the service is requested."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1994

Time: 3:25 P.M.

Act No. 94-590

S. 85 – Senators Ghee, Smith (J), Windom,
Wilson, Little, Ellis, Lipscomb,
Dixon, Bolling, Hale and Floyd

AN ACT

To amend Section 32-5A-191, Code of Alabama 1975, relating to the offense of driving under the influence of alcohol and drugs to increase the penalties and sanctions for a fourth and subsequent conviction.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-5A-191, Code of Alabama 1975, is amended to read as follows:

"§32-5A-191.

"(a) A person shall not drive or be in actual physical control of any vehicle while:

"(1) There is 0.10 percent or more by weight of alcohol in his or her blood;

"(2) Under the influence of alcohol;

"(3) Under the influence of a controlled substance to a degree which renders him or her incapable of safely driving;

"(4) Under the combined influence of alcohol and a controlled substance to a degree which renders him or her incapable of safely driving; or

"(5) Under the influence of any substance which impairs the mental or physical faculties of such person to a degree which renders him or her incapable of safely driving.

“(b) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a controlled substance shall not constitute a defense against any charge of violating this section.

“(c) Upon first conviction, a person violating this section shall be punished by imprisonment in the county or municipal jail for not more than one year, or by fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment. In addition, on a first conviction, the director of public safety shall suspend the driving privilege or driver's license of the person so convicted for a period of 90 days.

“(d) On a second conviction within a five-year period, a person convicted of violating this section shall be punished by a fine of not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) and by imprisonment, which may include hard labor in the county or municipal jail for not more than one year. The sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the county or municipal jail for not less than 48 consecutive hours or community service for not less than 20 days. In addition the director of public safety shall revoke the driving privileges or driver's license of the person so convicted for a period of one year.

“(e) On a third conviction within a five-year period, a person convicted of violating this section shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) and by imprisonment, which may include hard labor, in the county or municipal jail for not less than 60 days nor more than one year, to include a minimum of 60 days which shall be served in the county or municipal jail and cannot be probated or suspended. In addition, the director of public safety shall revoke the driving privilege or driver's license of the person so convicted for a period of three years.

“(f) On a fourth or subsequent conviction within a five-year period, a person convicted of violating this section shall be guilty of a Class C felony and punished by a fine of not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000) and by imprisonment of not less than one year and one day nor more than 10 years. Any term of imprisonment may include hard labor for the county or state, and where imprisonment does not exceed three years confinement may be in the county jail. Where imprisonment does not exceed one year and one day, confinement shall be in the county jail. The minimum sentence shall include a term of imprisonment for at least one year and one day which may be suspended or probated, but only if the defendant enrolls and successfully completes a state certified chemical dependency program recommended

by the court referral officer and approved by the sentencing court. Where probation is granted, the sentencing court may, in its discretion, and where monitoring equipment is available, place the defendant on house arrest under electronic surveillance during the probationary term. In addition to the other penalties authorized, the director of public safety shall revoke the driving privilege or driver's license of the person so convicted for a period of five years.

"Any law to the contrary notwithstanding, the Alabama Habitual Felony Offender law shall not apply to a conviction of a felony pursuant to this subsection, and a conviction of a felony pursuant to this subsection shall not be a felony conviction for purposes of the enhancement of punishment pursuant to Alabama's Habitual Felony Offender law.

"(g) In addition to the penalties provided herein, any person convicted of violating this section shall be referred to the court referral officer for evaluation and referral to appropriate community resources. The defendant shall, at a minimum, be required to complete a DUI or substance abuse court referral program approved by the Administrative Office of Courts and operated in accordance with provisions of the Mandatory Treatment Act of 1990, Sections 12-23-1 to 12-23-19, inclusive, Code of Alabama 1975. The Department of Public Safety shall not reissue a driver's license to a person convicted under this section without receiving proof that the defendant has successfully completed the required program.

"(h) Neither reckless driving nor any other traffic infraction is a lesser included offense under a charge of driving under the influence of alcohol or of a controlled substance.

"(i) Fines collected for violations of this section shall be paid to the state general fund except fines collected for violations of this section charged pursuant to a municipal ordinance which shall be distributed to the general fund of the municipality.

"(j) A person who has been arrested for violating this section shall not be released from jail under bond or otherwise, until there is less than the same percent by weight of alcohol in his or her blood as specified in subsection (a) (1) hereof.

"(k) Upon verification that a defendant arrested pursuant to this section is currently on probation from another court of this state as a result of a conviction for any criminal offense, the prosecutor shall provide written or oral notification of the defendant's subsequent arrest and pending prosecution to the court in which the prior conviction occurred."

Section 2. This act applies to conduct occurring after its effective date. Conduct occurring before the effective date of this act shall be governed by pre-existing law.

Section 3. The provisions of this are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective 120 days after its passage and approval by the Governor, or upon its otherwise becoming law.

Approved April 22, 1994

Time: 2:30 P.M.

Act No. 94-591

H. 227 – Rep. Harper

AN ACT

To provide a certain cost of living increase in pension benefits to certain members and certain beneficiaries of members of the teachers' and employees' retirement systems; to provide funding for the increase; and to provide that no person shall be entitled to receive the increase in benefits granted in this act if receipt of the increase would jeopardize the eligibility of a person to receive Medicaid benefits.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing October 1, 1994, there is provided to each person currently receiving benefits whose effective date of retirement was prior to October 1, 1994, for purposes of receiving benefits from the Teachers' Retirement System, and to certain beneficiaries of deceased members and deceased retirees currently receiving survivor benefits, if the effective date of retirement or death for the deceased retirees or deceased member was prior to October 1, 1994, for purposes of receiving benefits from the Teachers' Retirement System, a cost of living increase as follows:

(1) 2.50 percent of the current gross benefit paid to the retiree and to certain beneficiaries of deceased members and deceased retirees.

(2) One dollar and fifty cents (\$1.50) per month for each year of service attained by the retiree for each retiree selecting the maximum retirement allowance or option one.

(3) One dollar and fifty cents (\$1.50) per month for each year of service attained by the retiree reduced by the retiree's option election factor for each retiree selecting options two, three, or four unless the beneficiary under the option selected is deceased on October 1, 1994, in which case the increase shall not be reduced.

(4) One dollar and fifty cents (\$1.50) per month for each year of service attained by the deceased member or deceased retiree

reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the Teachers' Retirement System.

(5) One dollar (\$1) per month for each year of retirement attained by the retiree for each retiree selecting the maximum retirement allowance or option one.

(6) One dollar (\$1) per month for each year of retirement attained by the retiree reduced by the retiree's option election factor for each retiree selecting options two, three, or four unless the beneficiary under the option selected is deceased on October 1, 1994, in which case the increase shall not be reduced.

(7) One dollar (\$1) per month for each year of retirement attained by the deceased member or deceased retiree reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the Teachers' Retirement System.

Section 2. (a) Commencing October 1, 1994, there is provided to certain persons identified in subsection (b) of this section who are currently receiving benefits, whose effective date of retirement was prior to October 1, 1994, for purposes of receiving benefits from the Employees' Retirement System, and to certain beneficiaries of deceased members and deceased retirees who are currently receiving survivor benefits if the effective date of retirement or death for the deceased member or retiree was prior to October 1, 1994, for purposes of receiving benefits from the Employees' Retirement System, a cost of living increase as follows:

(1) 2.50 percent of the current gross benefit paid to the retiree and to certain beneficiaries of deceased members and deceased retirees.

(2) One dollar and fifty cents (\$1.50) per month for each year of service attained by the retiree for each retiree selecting the maximum retirement allowance or option one.

(3) One dollar and fifty cents (\$1.50) per month for each year of service attained by the retiree reduced by the retiree's option election factor for each retiree selecting options two, three, or four unless the beneficiary under the option selected is deceased on October 1, 1994, in which case the increase shall not be reduced.

(4) One dollar and fifty cents (\$1.50) per month for each year of service attained by the deceased member or deceased retiree reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the Employees' Retirement System.

(5) One dollar (\$1) per month for each year of retirement attained by the retiree for each retiree selecting the maximum retirement allowance or option one.

(6) One dollar (\$1) per month for each year of retirement attained by the retiree reduced by the retirees option election factor for each retiree selecting options two, three, or four unless the beneficiary under the option selected is deceased on October 1, 1994, in which case the increase shall not be reduced.

(7) One dollar (\$1) per month for each year of retirement attained by the deceased member or deceased retiree reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the Employees' Retirement System.

(b) The benefits provided in this section are limited to those retirees whose participation in the Employees' Retirement System was based on Section 36-27-6, Code of Alabama 1975, and whose employer at the time of retirement was local board of education or a state supported institution of higher education. The benefits granted in this act shall not apply to any other participants in the Employees' Retirement System.

Section 3. The survivor allowance shall be adjusted as provided in Sections 1 and 2 for those eligible retirees who have selected a monthly survivor allowance payable to a designated beneficiary upon the death of the retiree.

Section 4. (a) There is appropriated from the Alabama Special Educational Trust Fund to the Teachers' Retirement System of Alabama twenty eight million, eight hundred and forty-nine thousand, eight hundred and sixty-one dollars (\$28,849,861) to fund the benefits provided in this act, for the fiscal year beginning October 1, 1994.

(b) There is appropriated from the Alabama Special Educational Trust Fund to the Employees' Retirement System eighty-four thousand, six hundred and eight dollars (\$84,608) for the fiscal year beginning October 1, 1994, to partially defray the costs of this section relating to retired employees of local boards of education and state institutions of higher education who are retired under the Employees' Retirement System.

(c) Subsequent appropriations to the Teachers' and Employees' Retirement Systems shall be reduced to the amounts necessary to fund the increases in benefits provided in Sections 1 and 2 of this act in the fiscal years that the Legislature funds the cost of the increases.

Section 5. Any person who receives benefits under the Medicaid program and whose eligibility for the benefits would be impaired by the cost of living increase provided by this act shall not be entitled to receive the increase. Any person who shall subsequently apply for benefits under the Medicaid program and who

would have his or her eligibility to receive benefits impaired by the cost of living increase provided by this act, shall not be entitled to receive the increase after the date that the member files application for benefits under the Medicaid program.

Section 6. This act is supplemental. It shall be construed in pari materia with other laws regulating and providing for the payment of retirement benefits to certain retired members of the Teachers' Retirement System and certain retired members of the Employees' Retirement System. Notwithstanding the forgoing, those laws or parts of laws which are in direct conflict with this act are repealed.

Section 7. This act shall become effective October 1, 1994, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 1:10 P.M.

Act No. 94-592

S. 60 – Senator Denton

AN ACT

To amend Sections 40-6-1, 40-6-3, and 40-6-4, Code of Alabama 1975, relating to supernumerary tax assessors, tax collectors, revenue commissioners, and license commissioners, to provide for an increase in compensation; to provide further for the method of determining the compensation; to increase the contribution paid by the officials to the supernumerary program; and to repeal Sections 40-6-5, 40-6-7, and 40-6-8, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-6-1, Code of Alabama 1975, is amended to read as follows:

“§40-6-1.

“(a) In the various counties of the state of Alabama having a population of less than 600,000 inhabitants according to the last or any subsequent federal decennial census, any tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged with the assessment or collection, or both, of ad valorem taxes in any county of the state of Alabama:

“(1) Who has served for 14 years as such an official in any county of Alabama and who has become permanently and totally

disabled, proof of disability being made by certificate of three reputable physicians; or

“(2) Who has served for 12 years as a county official for any county of Alabama, at least 10 years or more continuously as tax collector, tax assessor, license commissioner, revenue commissioner, or other elected or appointed official charged with the assessment or collection, or both, of ad valorem taxes, and who is not less than age 60;

“May elect to become a supernumerary tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged with the assessment or collection, or both, of ad valorem taxes of the county in which the official serves by filing a written declaration to that effect with the governor. If the governor finds any declarant qualified either under subdivision (1) or (2) of this subsection, a commission as supernumerary tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged with the assessment or collection, or both, of ad valorem taxes for the county in which the official has served shall be issued to the declarant by the governor. In computing length of service, the time served as any other county-wide elected official or the time served as chief clerk of the tax collector, tax assessor, license commissioner of any county, shall be counted.

“(b) In the various counties of the state of Alabama Alabama having a population of less than 600,000 inhabitants according to the last or any subsequent federal decennial census, any person who has served 18 years as a county official for any county of Alabama, the last six or more years as tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged with the assessment or collection, or both, of ad valorem taxes, and previously at least 12 years as chief clerk to the tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged with the assessment or collection, or both, of ad valorem taxes, or previously at least 12 years as a county commissioner, who is not less than age 60 or who has become permanently and totally disabled, proof of that disability being made by certificate of three reputable physicians, may elect to become a supernumerary tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged with the assessment or collection of taxes, or both, by filing a written declaration to that effect with the governor. If the governor finds that any declarant is qualified under this subdivision, a commission as supernumerary tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged

with the assessment or collection, or both, of ad valorem taxes, for the county in which the official has served shall be issued to the declarant.

Section 2. Section 40-6-3, Code of Alabama 1975, is amended to read as follows:

“§40-6-3.

“Every supernumerary official shall serve for life and shall receive from the county governing body, in equal monthly installments on the first of each month, or in such installments as other county officials or employees are paid, an annual salary as follows:

“(1) For 12 years service the official shall receive 60 percent of the average compensation during the last four years served as an official charged with assessing and collecting ad valorem taxes.

“(2) For 14 years service the official shall receive 65 percent of the average compensation.

“(3) For 16 years the official shall receive 70 percent of the average compensation.

“(4) For 18 or more years the official shall receive 75 percent of the average compensation; provided, however, no person shall receive more than forty nine thousand six hundred dollars (\$49,600) per year.

“The tax collector, if there is a supernumerary tax assessor or tax collector in the county, or the license commissioner or person charged with the collection of ad valorem taxes other than the tax collector, if there is a supernumerary license commissioner or other official charged with the assessing or collecting, or both, of ad valorem taxes in the county, shall from the first money collected by the official pay to the county governing body the sum which shall be paid to the supernumerary official as heretofore set forth. The sum shall be deducted on a pro rata millage basis from payments to the state, county, and all subdivisions and agencies thereof, except municipalities, to which the person collecting ad valorem taxes is charged with the distributing of ad valorem taxes collected under the law. Notwithstanding the foregoing, if the official dies without leaving a surviving spouse, or otherwise becomes disqualified as an supernumerary official, any money remaining in the fund shall be refunded to the person by whom it is paid to the county, and the person shall distribute the money refunded to the state, county, and other subdivisions and agencies on the same pro rata millage basis that it was originally withheld.

“If any official covered under this chapter dies prior to attaining the age of 60 years, but being otherwise qualified to be

appointed a supernumerary official, except for age, and is survived by a spouse lawfully married to the official at the time of his or her death, then the surviving spouse shall be paid a monthly allowance equal to 50 percent of the salary which would have been paid to the official had he or she survived to the age of sixty. The monthly allowance shall be paid in the same manner as provided for payment to a qualified official and shall continue for 15 years or until the marriage of the surviving spouse, whichever first occurs. Upon the death of any official covered under this chapter after he or she has become fully qualified for appointment as a supernumerary official, including age, whether appointed as a supernumerary official or whether still serving in active office, the surviving spouse of the official shall be paid a monthly allowance equal to 50 percent of the supernumerary salary being paid to the official or to which he or she would be entitled if appointed as supernumerary. The monthly allowance shall be paid in the same manner as provided for the official and shall continue for 15 years or until the marriage of the surviving spouse, whichever first occurs."

Section 3. Section 40-6-4, Code of Alabama 1975, is amended to read as follows:

"§40-6-4.

"The governing body shall deduct from the salary of the tax collector, tax assessor, revenue commissioner, license commissioner, or other elected official charged with the assessment or collection, or both, of any ad valorem taxes of the county, if the officials are paid by salary, an amount equal to seven percent of the annual salary paid the official by the county. The sum shall be deducted monthly and distributed at the end of the fiscal year on a pro rata millage basis to the state, county, and all subdivisions and agencies thereof, except municipal corporations, to which ad valorem taxes are paid. If the officials are compensated by fees and commissions, the tax collector shall deduct from the money paid to the tax collector, tax assessor, revenue commissioner, license commissioner, or other elected official charged with the assessment or collection, or both, of ad valorem taxes, an amount equal to seven percent of the sum paid, and the amounts shall be distributed immediately to the state, county, and all subdivisions and agencies thereof, except municipal corporations, to which ad valorem taxes are paid. If any person coming under this chapter shall end his or her tenure of office prior to becoming supernumerary as provided in section 40-6-1, the official whose tenure of office has ended may elect to have the total amount paid by him or her refunded or, if qualified by length of service but not age, may elect to wait until reaching age 60 and then receive the annual salary as provided for

in section 40-6-3. In the event the person dies in office prior to becoming supernumerary, and leaves no surviving spouse, the amount paid in by him or her shall be paid to his or her estate. Any surplus remaining from contributions made by a supernumerary official who dies after becoming supernumerary, and without leaving a surviving spouse, but before he or she has drawn out as much as he or she had paid in prior to becoming supernumerary, shall be paid to his or her estate. In the event an official dies in office prior to serving the minimum length of time to qualify as a supernumerary, and leaves a surviving spouse, the amount paid in by him or her shall be paid to the surviving spouse. Any person desiring to come under this chapter pursuant to subdivisions (a)(2) or (b) of section 40-6-1, shall pay to the county tax collector such proportionate sum as to equal the amount he or she would have been required to pay if he or she were employed as a tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged with the assessment or collection, or both, of ad valorem taxes of the county, and the proportionate sum shall be distributed by the tax collector as provided in this section."

Section 4. Anything to the contrary in this act notwithstanding, the annual salary of every supernumerary official serving under this act on October 1 following the effective date of the act adding this language shall be increased by five thousand dollars (\$5,000). Notwithstanding the foregoing, the percentages provided in Section 40-6-3, as amended by this act, for computing supernumerary compensation, shall not apply to any supernumerary official appointed on or before the effective date of the act adding this language.

Section 5. Any official who is eligible to participate in the supernumerary program provided by this chapter, and who is participating or eligible to participate in any other state or county retirement program, shall elect whether he or she shall participate in the supernumerary program or in the other retirement program. Election to participate in the supernumerary program shall be made in writing to the county governing body of the county in which the official is serving within 60 days following the effective date of the act adding this language; or within 60 days after taking office as the official, whichever last occurs. If the official is participating in any other state or county retirement program, he or she shall simultaneously withdraw from that program. Upon election to participate in the supernumerary program, the official shall immediately pay to the county tax collector or other official charged with collecting ad valorem taxes, for each prior year of eligible service to which he or she is entitled credit, that sum as he or she would have paid had the official been participating in the

supernumerary program during that year of service, and the tax collector or other official shall distribute that sum as provided in Section 40-6-4. The official shall thereafter be subject to the other applicable provisions of this act.

Section 6. Sections 40-6-5, 40-6-7, and 40-6-8, Code of Alabama 1975, relating to election to participate in the supernumerary tax collectors and tax assessors program, are specifically repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:30 P.M.

Act No. 94-593

S. 197 – Senator Corbett

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Oil and Gas Board until October 1, 1996, with a modification to amend Section 9-17-3, Code of Alabama 1975, to add a nonvoting, noncompensated member emeritus to the board.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the State Oil and Gas Board until October 1, 1996, with the additional recommendation for statutory change of the board as described in Section 3

Section 2. The existence and functioning of the State Oil and Gas Board, created and functioning pursuant to Sections 9-17-1 to 9-17-33, inclusive, Code of Alabama 1975, is continued until October 1, 1996.

Section 3. Section 9-17-3, Code of Alabama 1975, is amended to read as follows:

“§9-17-3.

“(a) There is hereby created and established a board, to be known as the state oil and gas board, to be composed of three members to be appointed by the governor for terms of the following duration: one member for a term of two years; one member for a term of four years; and one member for a term of six years. At the expiration of the term for which each of the original appointments is made, each successor member shall be appointed for a term of six years;

and, in the event of a vacancy, the governor shall by appointment fill such unexpired term. Each member shall be eligible for reappointment at the discretion of the governor. Each member of the board shall be a resident of the state of Alabama and shall be a qualified voter therein. Each member shall qualify by taking an oath of office and shall hold office until his successor is appointed and qualified. The board shall elect from its number a chairman. The board shall meet or hold hearings at such times and places as may be found by the board to be necessary to carry out its duties. Each member of the board shall receive as compensation for his services an annual salary of \$3,600.00 and, in addition thereto, each member shall be entitled to a travel and office expense allowance of \$500.00 per month. The compensation and travel and office expense allowance as above set forth shall be paid from the oil and gas fund.

“(b) Any person who has served 19 or more years continuously on the board shall be a nonvoting member emeritus of the board. A member emeritus shall receive no compensation, salary, or travel or expense allowance or reimbursement for his or her service on the board.”

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:31 P.M.

Act No. 94-594

S. 262 – Senator Corbett

AN ACT

To amend Section 40-21-82.1, Code of Alabama 1975, relating to the utilities tax, to exempt the Bakerhill Water Authority, the Russell County Water Authority, and the Chambers County E911 Authority from the levy of the tax.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-21-82.1, Code of Alabama 1975, is amended to read as follows:

“§40-21-82.1.

“(a) Smith’s Water Authority in Lee county, Alabama, is exempt from all taxes levied under section 40-21-82.

“(b) The Northeast Crenshaw Water and Fire Protection Authority in Crenshaw and Montgomery counties, Alabama, is exempt from all taxes levied under section 40-21-82.

“(c) The Bakerhill Water Authority in Barbour County, Alabama, is exempt from all taxes levied under Section 40-21-82.

“(d) The Russell County Water Authority is exempt from all taxes levied under Section 40-21-82.

“(e) The Chambers County E911 Authority is exempt from all taxes levied under Section 40-21-82.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:34 P.M.

Act No. 94-595

S. 103 – Senator J. Smith

AN ACT

To amend Section 36-21-2, Code of Alabama 1975, to provide further for the subsistence allowance of law enforcement officers to include on a graduated basis officers with the Department of Corrections.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-21-2, Code of Alabama 1975, is hereby amended to read as follows:

“§36-21-2.

“(a) Any state law enforcement officer of the state of Alabama who is employed by the department of public safety, department of industrial relations, department of conservation and natural resources, Alabama alcoholic beverage control board, department of agriculture and industries, Alabama department of forensic sciences, the transportation enforcement division of the Alabama public service commission, Alabama liquefied petroleum gas board or probation and parole officers of the Alabama board of pardons and paroles, fire marshals of the department of insurance, revenue enforcement officers of the department of revenue, law enforcement

officers of the state capitol police, any investigator employed by a district attorney on a full-time basis, or correctional officers of the Department of Corrections shall receive a subsistence allowance of eight dollars (\$8) for each working day of a pay period while engaged in the performance of the duties as a law enforcement officer. This allowance shall be in addition to all other compensation, expenses, and allowances provided those officers.

“(b) The subsistence allowance shall not be subject to any income or other taxes levied by the state of Alabama or the federal government.

“(c) The act adding this amendatory language regarding the Department of Corrections correctional officers shall be phased-in in the amount of one dollar (\$1) per fiscal year for the eight years beginning with the effective date of this act. In any year that it is determined by Senate Joint Resolution or House Joint Resolution enacted by both houses and signed by the Governor that because of fiscal emergency the implementation of the one dollar (\$1) per fiscal year shall be suspended for that year only, this subsistence allowance, or any portion thereof, may be suspended.”

Section 2. The provisions of this amendatory act shall be implemented with the fiscal year beginning October 1, 1995.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:35 P.M.

Act No. 94-596

S. 344 – Senator Hale

AN ACT

To amend Section 40-23-5, Code of Alabama 1975, to provide further for sales and use tax exemptions for certain organizations and to provide for retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-23-5, Code of Alabama 1975, is amended to read as follows:

“§40-23-5.

“(a) The Diabetes Trust Fund, Inc., and any of its branches or agencies, heretofore or hereafter organized and existing in good

faith in the State of Alabama for purposes other than for pecuniary gain and not for individual profit, are hereby exempted from paying any state, county or municipal sales or use taxes.

“(b) The Chilton County Rescue Squad is hereby exempted from paying any sales or use taxes.

“(c) The state headquarters only of the American Legion, the American Veterans of World War II, Korea and Vietnam (a/k/a “AMVETS”), the Disabled American Veterans, the Veterans of Foreign Wars (a/k/a VFW), Alabama Goodwill Industries and the Alabama Sight Conservation Association are hereby exempted from paying any state, county or municipal sales or use taxes.

“(d) The Grand Chapter of all Orders of the Eastern Star and the South Alabama State Fair Association Southeastern Livestock Exposition of the State of Alabama and any of its agencies, heretofore or hereafter organized and existing in good faith in the State of Alabama for purposes other than for pecuniary gain and not for individual profit, are hereby exempted from paying any state, county or municipal sales and use taxes.

“(e) The Alabama Goodwill Industries, Inc., of Birmingham is hereby exempted from paying any state, municipal, or county sales and use taxes.

“(f) The Alabama Federation of Women’s Clubs is hereby exempted from paying any state, county or municipal sales or use taxes.

“(g) The National Conference of State Legislatures and the Council of State Governments are hereby exempted from paying any state, county or municipal sales or use taxes.

“(h) All blind vendors associated with the Business Enterprise Program of the Division of Rehabilitation and Crippled Children Service through the Department of Education are hereby exempted from paying any state, county or municipal sales or use taxes.

“(i) All vendors who are blind as defined by Section 1-1-3, and who are certified by the Rehabilitation and Crippled Children Service, are hereby exempted from paying any state, county or municipal sales or use taxes.

“(j) The Elks Club, B.P.O.E., No. 1887, a corporation, is hereby exempted from paying any state, county or municipal sales or use taxes. Provided, however, that the exemption provided by this subsection shall not extend to any bar or dining room operation conducted by said Elks Club.

“(k) The King’s Ranch, Inc., is hereby exempted from paying any state, county or municipal sales or use taxes.

“(l) The Eye Foundation, Inc., and any of its branches or agencies, heretofore, or hereafter organized and existing in good faith in the State of Alabama for purposes other than for pecuniary gain and not for individual profit, are hereby exempted from paying any state, county, or municipal sales or use taxes.

“(m) Any county public hospital association or any Alabama nonprofit membership corporation if one or more of its members is a county public hospital association, and any of its, or their, branches, agencies, lessees or successors organized pursuant to Section 10-3A-1, et seq., and which operates or maintains hospitals for purposes other than for pecuniary gain and not for individual profit, is hereby exempted from paying any state, county, or municipal sales and use tax of any nature whatsoever. Any of the taxes which were or may be assessed or collected subsequent to December 31, 1993, against any Alabama nonprofit membership corporation or any lessee of any county public hospital association organized as herein stated, pursuant to a lease in writing, will be remitted to the entity which paid them; and no action or proceeding against the association or nonprofit corporation may be instituted after the date by the State of Alabama or any county or municipality thereof or any agent or person acting on behalf thereof for the collection or enforcement of any sales or use tax of any nature whatsoever.

“(n) There is hereby exempted from all state, county and municipal sales taxes the sale of food pursuant to the food distribution program conducted by Christian Service Mission, Inc., an Alabama not-for-profit corporation, in cooperation with World Share, Inc., to enable needy persons to purchase food at substantially discounted prices and in consideration of the performance of charitable or community work by such persons.

“(o) Rescue service organizations operating within the State of Alabama which are exempt from federal income taxes under the Internal Revenue Code of 1986, § 501(c) (3) and which are members of the Alabama Rescue Services Association, Incorporated, are hereby exempted from any state, county and municipal sales and use taxes.

“(p) Alabama Goodwill Industries, Inc., Goodwill Industries of Mobile Area, Inc., and Goodwill Industries of Central Alabama, Inc., are exempted from paying any state, county, and municipal sales or use taxes.

“(q) The gross receipts from the sale of admissions to a sporting event conducted by the Senior Professional Golfers Association are exempted from any state, county, and municipal sales taxes.”

Section 2. The amendatory provisions of this act shall have retroactive effect to December 31, 1993. The State Department of

Revenue shall provide for refunding any sales and use taxes paid between December 31, 1993, and the effective date of this act by any corporation exempted from the taxes under this act.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:36 P.M.

Act No. 94-597

H. 46 – Rep. Hooper

AN ACT

To establish the Alabama Legislative Commission on Total Quality Government Act of 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the “Alabama Legislative Commission on Total Quality Government Act of 1994.”

Section 2. The Legislature hereby finds as follows:

(1) The state and federal governments are facing unprecedented demands for government services in a time of proration, national deficit spending, increasing national debt, a highly competitive world economy, and the increasing disillusionment on the part of the public with the ability of the governments to adequately meet the needs.

(2) Citizens want their governments, state and federal, to be more responsive to their needs, by operating at a more personal level with greater efficiency, higher performance, and lower cost.

(3) Total Quality, a structured management approach first used in private industry, has proven to increase profitability and marketshare, decrease costs, increase employee satisfaction, and decrease employee turnover.

(4) Early efforts to implement Total Quality within the federal government have produced favorable results; in fact, it is believed that Total Quality offers one of the greatest hopes for improving government services, managing the diverse demands of Alabama’s government, and optimizing the results of state tax dollar expenditures.

(5) The application of Total Quality principles to Alabama government must begin with educating state government officials about Total Quality; there has been no established legislative group to educate the full Legislature and the service and regulatory departments of state government about the principles and application of Total Quality.

(6) There is a need for a legislative commission to examine Total Quality and its' applications to state government.

Section 3. As used in this act, the following words and phrases shall have the following meanings:

(1) COMMISSION. The Alabama Legislative Commission on Total Quality Government established by this act.

(2) CUSTOMER. Any individual, organization, or entity that is a recipient of state government products or services, including any individual, organization, or entity within the government that is a recipient of those products and services.

(3) STATE GOVERNMENT OR GOVERNMENT. All service and regulatory agencies of the State of Alabama.

(4) SUPPLIER. Any individual, organization, or entity that provides products or services to the government, including any individual, organization, or entity within the state government that receives those products or services.

(5) TOTAL QUALITY. A strategic, customer-focused management approach that focuses on continual quality improvement processes, products, and services of an entire organization; the basic principles of Total Quality include:

- a. Customer-defined and customer-driven quality.
- b. Strong leadership and commitment.
- c. Continuous improvement.
- d. Actions based on facts, data, and analysis.
- e. Large-scale employee involvement and teamwork.
- f. Employee reward and recognition.
- g. Effective two-way communication between employees and management.

Section 4. There is created the Alabama Legislative Commission on Total Quality to be composed of 15 members, of whom four shall be black, appointed as follows: four members appointed by the Governor, to serve an initial term of either one, two, three, or four years; four members appointed by the Presiding Officer of the Senate,

to serve an initial term of either one, two, three, or four years; and four members appointed by the Speaker of the House of Representatives, to serve an initial term of either one, two, three, or four years. After the initial terms, all members shall serve four-year terms. The Governor, Presiding Officer of the Senate, and Speaker of the House of Representatives shall serve as ex officio members. Vacancies on the commission shall be filled by the original appointing authority. A member shall not serve more than one term as a commissioner. A chair and vice chair shall be selected from the membership. The chair and vice chair shall serve one-year terms and not be permitted to succeed themselves. The commission shall meet at least bimonthly at the call of the chair at any other time deemed appropriate by the commission. The Clerk of the House of Representatives and the Secretary of the Senate shall furnish such clerical assistance, and the Director of the Legislative Reference Service shall furnish such legal assistance as may be necessary for the work of the commission.

Section 5. The commission shall have the following duties:

(1) Provide for the education of members of the Legislature and state agencies of Alabama about Total Quality, including the basic concepts, potential benefits, and application to state government, among other responsibilities.

(2) Arrange Total Quality presentations for members of the Legislature and host quality meetings between invitees from the Legislature, the executive branch, state, and local governments, private industry, or other relevant parties to discuss the application of Total Quality to government.

(3) Make and transmit to the Governor and the Legislature findings and recommendations regarding the application of Total Quality principles to the organization and continuous operations of state government. These findings and recommendations shall address the continuous improvement of government operations through the promotion of citizen satisfaction, cost-saving, employee satisfaction and service in the government, including:

a. Defining program missions in terms of measurable outcomes, with an emphasis on quality of the service, citizen satisfaction, and result-oriented accountability.

b. Improving department operating systems to improve morale, inspire initiative, maximize productivity and effectiveness, foster teamwork, and rewarding excellence.

c. Recommending procedural changes aimed at employee empowerment.

d. Empowering employees, agencies, and programs in order to reduce costs, simplify processes, and focus responsibility.

e. Promoting the application of state-of-the-art technologies in order to improve efficiency and reduce costs.

f. Developing of mechanisms to promote greater cooperation and coordination in policy-making between the legislative and executive branches, and greater attention to the long term impacts of budgetary and policy decisions.

(4) Sponsoring and participating in periodic forums with various state government customers and suppliers, and provide opportunities for citizens, government employees, and other affected groups to communicate their satisfaction with government services or their recommendation for improvement.

Section 6. The commission shall annually submit a report to the Governor and the Legislature, which shall include:

(1) An outline of the educational strategy of the commission.

(2) A plan for accomplishing the goals of the commission.

(3) A summary of the activities of the commission following its establishment.

(4) A recommendation regarding the application of Total Quality principles to the organization and operation of Alabama state government.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:37 P.M.

Act No. 94-598

H. 140 – Rep. Carothers

AN ACT

To provide for the “Alabama Local Government Training Act”; to provide for legislative intent; to provide for definitions; to provide that elected members of county commissions attend a course of training and education on local government matters; to provide for the payment of expenses from public funds; to establish the Alabama Local Government Training Institute; to provide for dates of the course of training and education; to provide for a board of directors of the institute; and to provide for procedures relative to the administration of the institute.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and cited as the “Alabama Local Government Training Act.”

Section 2. The Legislature finds and declares that it is in the best interests of the citizens of this state to require newly elected county commissioners to participate in a course of training and education on matters pertaining to the administration and operation of county government. The purpose of the course shall be to instruct the individuals in the powers, duties, and responsibilities of their positions of public trust.

Section 3. As used in this act, the following terms shall have the following respective meanings, except where the context clearly indicate a different meaning:

(1) **BOARD.** The Board of Directors of the Alabama Local Government Training Institute.

(2) **COUNTY COMMISSION.** The governing body as created in Section 11-3-1 of the Code of Alabama 1975, and each county governing body created by local act.

(3) **INSTITUTE.** The Alabama Local Government Training Institute.

(4) **STATE.** The State of Alabama and any department, board, bureau, commission, or other agency thereof.

Section 4. (a) All persons elected as members of a county commission who were not serving as members of a county commission on June 1, 1994, may enroll in, participate in, and satisfactorily complete a course of training and education of at least 50 hours on matters pertaining to the administration and operations of county government. The course of training and education shall include, but not be limited to, instruction in local government operations finance and budgeting; planning; public works and utilities; **environmental management**; personnel management; responsiveness to the community; ethics, duties, and responsibilities of members of the county commission; and all other matters deemed necessary and appropriate by the board.

(b) All expenses incurred by a county commissioner related to the course of training and education pursuant to this act, including the reasonable costs of housing, travel, and meals, shall be paid from the general fund of the county.

(c) The course of training and education required by this act may be offered by any four-year institution of higher education located in Alabama.

Section 5. (a) There is created and established the Alabama Local Government Training Institute. All costs of operating and conducting the institute shall be paid from public funds appropriated for this purpose.

(b) The institute shall have the power, duty, and authority to design, implement, and administer the course of training and education pursuant to this act.

(c) The course of training and education required by Section 4 of this act shall be conducted by the institute as soon as practicable after each general election at which county commissioners are elected. The training and education shall be completed no later than two years from the election. The institute shall have sole responsibility for determining the specific date or dates the course of training and education shall be conducted.

(d) The board shall establish guidelines and procedures to permit a person elected or appointed as a member of a county commission who is unable to attend or complete the course of training and education when offered by the institute due to the appointment of a commissioner to fill a vacant office during a term, medical disability, providential cause, or another reason deemed sufficient by the board to comply with the requirements of this act.

(e) The board shall perform all other duties and have other powers and authority necessary and proper or as prescribed by general law.

Section 6. (a) The institute shall be under the direction and supervision of the Board of the Alabama Local Government Training Institute. The board shall have the power and duty to organize, administer, control, oversee, and advise the institute so that the institute shall be operated pursuant to this act.

(b) The board shall be composed of nine members as follows:

(1) One representative of a four-year institution of higher education in Alabama appointed by the Alabama Commission on Higher Education.

(2) The President of the Association of County Commissions of Alabama.

(3) The Executive Director of the Association of County Commissions of Alabama.

(4) One member who shall serve at the pleasure of and be appointed by the Board of Directors of the Association of County Commissions of Alabama.

(5) The chair of the Senate Governmental Affairs Committee.

(6) The chair of the Local Government Committee of the House of Representatives.

(7) One member appointed by the Governor.

(8) One member appointed by the Lieutenant Governor.

(9) One member appointed by the Speaker of the House of Representatives.

(c) Members of the board appointed by the Governor, Lieutenant Governor, and Speaker of the House of Representatives shall be county commissioners who shall serve for four-year terms.

(d) The board shall annually elect a chair and other officers deemed expedient. The officers shall serve at the pleasure of the board and shall have the duties and powers determined by the board.

(e) The board may accept appropriations, grants, gifts, donations, or contributions from the federal government and the state government; a county, municipal, or local government; a board, bureau, commission, agency, or establishment of any such government; another organization, firm, or corporation, public or private; and an individual or groups of individuals in furtherance of the services, purposes, duties, responsibilities, or functions vested in the board and college.

(f) The board shall make contracts, leases, or agreements necessary and convenient to carry out the duties and purposes for which the board is created. The board shall enter into contracts, leases, or agreements with a person, firm, or corporation, public or private, upon terms and for purposes deemed advisable.

(g) The board shall provide advanced or continuing training and education to county commissioners through the institute in addition to that required by Section 4 of this act. Public funds may be expended for the advanced or continuing training and education in the same manner as the required training and education, but a county commissioner's enrollment in, attendance at, or completion of an advanced course of study shall be voluntary and shall not be required.

(h) The board shall provide for the grant of awards, degrees, diplomas, or other forms of recognition for successful completion of its programs as it deems proper.

(i) The board shall receive no additional compensation for their service pursuant to this act.

Section 7. (a) On or before the fifth legislative day of the regular session of the Legislature, the chair of the board, on behalf of the board, shall make a report to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives. A copy of the report shall be delivered to the Clerk of the House of Representatives and the Secretary of the Senate who shall provide for the reading of the report into the journals of the respective houses.

(b) The report shall include a summary of the accomplishments of the institute during the preceding calendar year, including, but not limited to: The total number and names of county commissioners who attended the course of training and education offered by the institute; an outline of the programs of the institute for the current calendar year; an evaluation of the programs and services offered by the institute; and recommendations, if any, for legislation necessary to improve the programs and services offered by the institute.

Section 8. All laws or parts of laws which conflict with this act are repealed.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:40 P.M.

Act No. 94-599

H. 18 – Rep. Melton

AN ACT

Relating to the District Attorney of the Sixth Judicial Circuit; to provide for an adjustment in the total compensation of the District Attorney of the Sixth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to the salary paid to the District Attorney in the Sixth Judicial Circuit by the state, there shall also be paid to the district attorney, from the general fund of the county treasury in monthly installments, an annual supplement in the same manner as active circuit judges in the Sixth Judicial Circuit, so that the total amount of annual salary of the district attorney payable by the state and county shall be an amount equal to the total annual salary of active circuit court judges in the sixth circuit, or of the circuit judge with the greater salary, should one judgeship be or become a greater paid position than the circuit judgeships, and in like manner, a supernumerary or retired District Attorney of the Sixth Judicial Circuit shall be so compensated as the supernumerary or retired circuit judge or judges.

Section 2. The county salary supplement provided by this act shall be in lieu of any other county salary supplement for the district attorney and the supplement paid a supernumerary or retired district attorney shall be paid out of the district attorney's account and not from the general fund of Tuscaloosa County.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:41 P.M.

Act No. 94-600

H. 876 – Rep. Venable

AN ACT

Relating to Coosa County; to provide for the speed limit on unpaved county roads.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) In Coosa County, unless otherwise posted, the speed limit to operate a motor vehicle on any unpaved county road shall be 35 miles per hour.

(b) For purposes of this act, the term "unpaved county road" shall mean any road or highway under the jurisdiction of the county, the surface of which consists of natural earth, mixed soil, stabilized soil, aggregate, crushed sea shells, or similar materials without the use of asphalt, cement, or similar binders.

(c) The county commission may determine a maximum or minimum speed limit different from the speed limit provided in subsection (a) on any unpaved county road or any part of an unpaved county road based on the conditions which exist on the road or on a part of a road.

(d) Any person who violates subsection (a) of this act shall be punished as provided by law.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:42 P.M.

Act No. 94-601

H. 858 – Rep. Laird

AN ACT

Relating to Randolph County; providing for the assessment of additional costs and charges in all circuit and district court cases, excluding small claims division cases, and providing for the establishment of a Juvenile Court Services Fund and the distribution of moneys in the fund.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other costs and charges in circuit and district court cases in Randolph County, an additional court charge of three dollars (\$3) shall be charged and collected by the clerk of the court. This charge shall not be collected on small claims cases. When collected by the clerk of the court, the additional court charge shall be remitted monthly to the Juvenile Court Services Fund.

Section 2. In addition to all other costs and charges of court in Randolph County, a monthly supervision fee may be assessed in juvenile cases by the judges of the juvenile court. The supervision fee shall be collected by the juvenile court office and deposited in the Juvenile Court Services Fund.

Section 3. (a) The Juvenile Court Services Fund is created for the deposit of the court cost fees specified in this act. The fund shall be maintained in an interest bearing account under the supervision of the Juvenile Court Judge of Randolph County.

(b) Any funds appropriated from the Juvenile Court Services Fund shall be expended solely for juvenile programs, for subsistence for the juvenile court services staff in the county, to aid the functions of the juvenile court, and for the benefit of the children of

Randolph County. Any funds expended shall be authorized by the Juvenile Court Judge of Randolph County.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:43 P.M.

Act No. 94-602

H. 223 – Reps. Harper, Freeman

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to Constitution Hall Village at Huntsville, Alabama, for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated to Constitution Hall Village at Huntsville, Alabama, the sum of \$1,000,000 from the Alabama Special Educational Trust Fund, to be used for support and maintenance.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1994.

Approved April 22, 1994

Time: 4:45 P.M.

Act No. 94-603

H. 195 – Rep. Harper

AN ACT

To make an appropriation to the Department of Education for the fiscal year ending September 30, 1995.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Department of Education for the fiscal year ending September 30, 1995, the following amounts from the Alabama Special Educational Trust Fund (ASETF) and Federal and Local Funds:

**EDUCATION, DEPARTMENT
OF:**

(a) Direct Client Services for
the Handicapped Program.....

87,394,694

The proposed spending plan
for the ASETF moneys in-
cluded in the above program
is as follows:

Homebound.....2,956,361

Hemophilia995,535

Children's Rehabilitation Serv-
ices6,090,331

Of the above appropriation the
agency will pay to each hospi-
tal the standard per diem paid
by the state Medicaid agency
for services relating to scolio-
sis and spina bifida medical
care.

Rehabilitation
Services.....8,759,799

Of the above appropriation
to Rehabilitation Services,
\$250,000 shall be used for
the Deaf Support Service.

Early Intervention
Program.....3,170,604

The release of the above appro-
priation to the Early Inter-
vention Program is condi-
tioned upon the receipt of
federal funds supporting this
program.

SOURCE OF FUNDS:

(1) ASETF 21,972,630

(2) Federal and Local Funds....	<u>65,422,064</u>		
Total Direct Client Services for the Handicapped Program	<u>21,972,630</u>	<u>65,422,064</u>	<u>87,394,694</u>
(b) Disability Determination for Social Security Program ..			30,522,911

SOURCE OF FUNDS:

(1) Federal and Local Funds...	<u>30,522,911</u>		
Total Disability Determina- tion for Social Security Pro- gram.....	<u>30,522,911</u>	<u>30,522,911</u>	

TOTAL DEPARTMENT OF
EDUCATION:

SOURCE OF FUNDS:

(1) ASETF	21,972,630		
(2) Federal and Local Funds...	<u>95,944,975</u>		
TOTAL DEPARTMENT OF EDUCATION	<u>21,972,630</u>	<u>95,944,975</u>	<u>117,917,605</u>

Section 2. The above appropriation is made for educational purposes which shall include but shall not be limited to the following: (a) Providing medical, paramedical, counseling and educational services (instruction in the training of disabled persons) to crippled children and their families. The Legislature recognized the educational nature of such services in Section 16-38-7 of the Code of Alabama 1975; (b) Providing vocational rehabilitation through a state-federal initiative for the purpose of teaching independent living skills in order to return the clients to the workforce; (c) Providing educational services to severely disabled clients which includes academic tutoring, teaching of independent living skills, and providing equipment (wheelchairs and ramps) to allow school-age children to attend school.

Section 3. The Department of Education is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1995.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective on October 1, 1994.

Approved April 22, 1994

Time: 4:46 P.M.

Act No. 94-604

H. 883 – Rep. Campbell

AN ACT

Relating to Calhoun County; to provide for the assessment and collection of additional court costs in the district and circuit court of the county; and to provide for the use of the funds for security at the Calhoun County Courthouse.

Be It Enacted by the Legislature of Alabama:

Section 1. In Calhoun County, in any case in which court costs are assessed in the district and circuit court of the county, there shall be assessed and collected as other costs and charges are collected an additional court cost in the amount of five dollars (\$5) which shall be used solely for security at the Calhoun County Courthouse.

Section 2. The provisions of this act are supplemental and shall not be construed to repeal any act not in direct conflict with this act.

Section 3. This act shall become effective the first day of the second month following its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 22, 1994

Time: 4:47 P.M.

Act No. 94-605

H. 875 – Rep. Venable

AN ACT

Relating to Coosa County; regulating the liquor traffic by authorizing the county commission to reject certain licenses issued for the sale of alcoholic beverage; and making the rejection subject to review by the Alcoholic Beverage Control Board.

Be It Enacted by the Legislature of Alabama:

Section 1. In Coosa County, the county commission shall have the right to reject any license issued for the sale of alcoholic beverages which the local governmental entity approved for issuance to any hotel, restaurant, grocery store, or club within 1,000 feet of a church. This power to reject the license shall be subject to the review of the Alcoholic Beverage Control Board.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1994

Time: 4:48 P.M.

Act No. 94-606

H. 755 – Reps. Carothers, Beasley,
Williams, Mathis

AN ACT

Proposing an amendment to the Constitution of 1901; relating to legalizing certain operations of bingo games for prizes or money for charitable or educational purposes in Houston County; and repealing Act No. 93-333, H. 717 of the 1993 Regular Session.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when approved by a majority of the qualified electors voting in accordance with Sections 284, 285, and 287 of the Constitution of 1901, and in Houston County, as follows:

PROPOSED AMENDMENT

(a) The operation of bingo games for prizes or money by certain nonprofit organizations and certain private clubs for charitable, educational, or other lawful purposes shall be legal in Houston County, subject to any resolution or ordinance by the county commission as provided by law regulating the operation of bingo. The county commission may promulgate rules and regulations for issuing permits or licenses and for operating bingo games within the county jurisdiction. The county commission shall insure compliance pursuant to any ordinance and the following:

(1) No person under the age of 19 shall be permitted to play any game or games of bingo, unless accompanied by a parent or guardian. No person under the age of 19 shall be permitted to conduct or assist in the conduct of any game of bingo.

(2) Except for special permit holders, no bingo permit or license shall be issued to any nonprofit organization or qualified private club, unless the organization or club shall have been in existence for at least five years and owned real property in the county for five years immediately prior to issuing the permit or license, except the following:

a. A fraternal, or benevolent, or charitable organization which qualifies as an exempt organization under Section 501(c) of the Internal Revenue Code.

b. A private club with annual membership dues of three hundred dollars (\$300) or more.

(3) Bingo games shall be operated only on the premises owned or leased by the nonprofit organization or club operating the bingo

game. If the premises are leased, the rate or rental shall not be based on a percentage of receipts or profits resulting from operating the bingo games.

(4) No nonprofit organization or club shall enter into any contract with any individual, firm, association, or corporation to have the individual or entity operate bingo games or concessions on behalf of the nonprofit organization or club. No nonprofit organization or club may pay consulting fees, any compensation or salary to any individual or entity for any services performed relating to operating or conducting any bingo game.

(5) A nonprofit organization or club shall not lend its name or allow any other person or entity to use its identity in operating or advertising a bingo game in which the nonprofit organization or club is not directly and solely operating the bingo game or concessions.

(6) Prizes given by any qualified nonprofit organization or qualified private club for playing bingo games shall not exceed the cash amount or gifts of equivalent value, set by the Legislature, during any bingo session. The Legislature shall set a maximum amount for any calendar week.

(7) One hundred percent of the net revenues derived from operating bingo games shall be designated and expended for charitable or educational purposes.

(8) No person, or organization, or club, by whatever name or composition, shall take any expenses for operating a bingo game except as permitted by law.

(b) The Legislature may, by local legislation, provide for the implementation of this amendment, including, but not limited to, the imposition of criminal penalties for violations of this amendment or the local legislation.

(c) This amendment shall not become effective unless approved at a referendum by a majority of the qualified electors of Houston County voting on the proposition. The referendum shall be held at the same time as the election for the ratification of this amendment, as provided for in Section 2 of this act, and no further election shall be required.

(d) Act No. 93-333, H. 717 of the 1993 Regular Session is repealed.

Section 2. An election upon the proposed amendment shall be held at the next general, special, primary, or constitutional amendment election held more than three months after final adjournment of the session of the Legislature at which this act is adopted. The election shall be held in accordance with Sections 284

and 285 of the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor. The proclamation shall be published once a week for four successive weeks immediately preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office. Upon ratification, this constitutional amendment shall become self-executing, but the Legislature may by general, special, or local act adopt laws supplemental to this amendment in furtherance of the general purposes and objectives provided in this amendment.

CONSTITUTIONAL AMENDMENT

Passed the House March 8, 1994

Passed the Senate April 25, 1994

Act No. 94-607

H. 58 – Rep. Carter

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to prohibit the establishment of supernumerary positions and allow those affected officials to participate in the Employees' Retirement System.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended.

PROPOSED AMENDMENT

No mayor, sheriff, or elected or appointed county official shall assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every mayor, sheriff, and elected or appointed county official may participate in the Employee's

Retirement System of Alabama, or any municipal or county retirement system in the same manner and upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. For the purposes of this amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official but shall not include a judge, district attorney, legislator, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held at the next general, special, primary, or constitutional amendment election held more than three months after final adjournment of the session of the Legislature at which this act is adopted. The election shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor. The proclamation shall be published once a week for four successive weeks immediately preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, as copy of the notice shall be posted at each courthouse and post office.

CONSTITUTIONAL AMENDMENT

Passed the House January 25, 1994

Passed the Senate April 25, 1994

Act No. 94-608

S. 321 – Senator Langford

AN ACT

Providing group health insurance for certain retired judges of probate and legislators in the state employees group health insurance plan and providing that the retired judges and legislators shall pay the entire cost for having such group health insurance.

Be It Enacted by the Legislature of Alabama:

Section 1. Any judge of probate who qualifies to retire from active service with a benefit from the judicial retirement fund or any legislator shall be entitled to participate in the state employees health insurance plan. The entire cost for the group health insurance during retirement for a judge of probate or for a legislator shall be paid by such retired judge or legislator under such

terms and conditions as the group insurer may, from time to time, prescribe for such group health insurance.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1994

Time: 5:45 P.M.

Act No. 94-609

S. 431 – Senators Hale and Dial

AN ACT

To provide that a person requesting medical records shall pay certain costs for reproduction and delivery of the medical records, and pay for the medical records at delivery.

Be It Enacted by the Legislature of Alabama:

Section 1. The following words and phrases used in this act shall have the following meanings:

(1) **ACTUAL COSTS.** The cost of material and supplies used to duplicate the medical record, the labor costs, and other costs associated with duplication of the medical records.

(2) **PERSON.** Any medical provider or company or other legal entity that maintains medical records.

Section 2. (a) Notwithstanding any other provision of law, any person required to release copies of medical records may condition the release upon payment by the requesting party of the reasonable costs of reproducing the medical records.

(b) The reasonable costs of reproducing copies of written or typed documents, or reports shall not be more than one dollar (\$1) for each page of the first 25 pages, not more than 50 cents (\$.50) for each page in excess of 25 pages, and a search fee of five dollars (\$5). If the medical records are mailed to the person making the request, reasonable costs shall include the actual costs of mailing the medical records.

(c) A person may charge in addition to the fees allowed in subsection (b) of this act the actual cost of reproducing x-rays and other special medical records.

(d) Unless other arrangements for payments are made between the requesting party and the person supplying the medical records, the requesting party shall pay the fees charged for reproduction

and delivery of the medical records prior to delivery of the medical records.

(e) The provisions of this act shall not apply to records subpoenaed by the State Board of Medical Examiners.

(f) This act shall not affect any fees or costs currently paid by state agencies.

Section 3. Section 12-21-6(b), Code of Alabama 1975, and all laws or parts of laws which conflict with this act are repealed.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1994

Time: 5:46 P.M.

Act No. 94-610

S. 367 – Senator Foshee

AN ACT

To amend Section 37-1-11 of the Code of Alabama 1975, relating to compensation of the members of the Public Service Commission so as to further provide for the compensation of the members of the Public Service Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-1-11 of the Code of Alabama 1975, is amended to read as follows:

“§37-1-11.

“Subject to the provisions of this section, the President of the Public Service Commission and each of the Associate Commissioners of the Public Service Commission shall continue to receive the annual salary and the monthly expense allowance in the amount set by law on the effective date of the act amending this code section. Effective at the beginning of the next term of office of any member of the commission, the President of the Public Service Commission shall receive a salary of seventy-five thousand dollars (\$75,000) per year and the Associate Commissioners of the Public Service Commission shall receive a salary of seventy thousand dollars (\$70,000) per year, and

shall not receive a monthly expense allowance. The president and associate commissioners shall not receive any cost-of-living salary increase granted to state officers and employees for the fiscal year beginning October 1, 1994.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1994

Time: 6:00 P.M.

Act No. 94-611

H. 722 – Rep. Venable

AN ACT

Proposing an amendment to Amendment No. 425 to the Constitution of Alabama of 1901, relating to the mode of adoption of proposed constitutional amendments affecting only one county, to clarify certain provisions of the amendment and to provide further for the mode of adopting amendments affecting only one county and to ratify and confirm constitutional amendments previously approved pursuant to Amendment No. 425.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

Amendment No. 425 to the Constitution of Alabama of 1901, is amended to read as follows:

“(a) Any proposed constitutional amendment which affects or applies to only one county shall be adopted as a valid part of the constitution by a favorable vote of a majority of the qualified electors of the affected county who vote on the amendment. Any proposed constitutional amendment which affects or applies to only one political subdivision within a county or counties shall be adopted as a valid part of the constitution by a favorable vote of a majority of the qualified electors of both the county and the political subdivision affected by the amendment who vote on the amendment. The proposed amendment may provide for a separate referendum in a political subdivision of less than a county if a

simultaneous referendum is not possible because of conflicting voting precincts.

“(b) The proposed amendment shall first be approved by at least a three-fifths vote of the elected members of each house of the Legislature with no dissenting vote cast and approved by a majority vote of the Local Constitutional Amendment Commission. The commission shall be composed of the Governor, Presiding Officer of the Senate, Attorney General, Secretary of State, and Speaker of the House of Representatives. The Legislature may by general act specify procedures for the Local Constitution Amendment Commission, but may not expand its role beyond deciding whether the amendment affects more than one county or more than one political subdivision in one or more counties.

“(c) Notice of the election, together with the proposed amendment, shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county or counties affected.

“(d) In the event any constitutional amendment proposed for adoption pursuant to this amendment is approved by at least a three-fifths vote of the elected members of each house of the Legislature but with one or more dissenting votes cast, the amendment shall be treated as a statewide amendment as described in subsection (e).

“(e) If after having been approved by at least a three-fifths vote of the elected members of each house of the Legislature without a dissenting vote cast the proposed amendment is not approved by a majority vote the Local Constitutional Amendment Commission, it shall automatically be submitted in a statewide referendum in accordance with the procedures for proposed statewide constitutional amendments under Sections 284 and 285 of the Constitution of Alabama of 1901. If the proposed amendment is submitted in a statewide referendum, it shall not become effective unless approved at a referendum by a majority of the qualified voters of the affected county voting on the proposition and the affected political subdivision voting on the proposition, if it affects less than the whole county. The referendum in a political subdivision may be held at the same time as the election for the ratification of the proposed amendment, or at another time if provided by the proposed amendment.

“(f) Notwithstanding any provision of the Constitution of Alabama of 1901, to the contrary, all constitutional amendments which have been adopted by a majority vote of the appropriate

electorate pursuant to Amendment No. 425 to the Constitution of Alabama of 1901, are hereby ratified and confirmed.

Section 2. An election upon the proposed amendment shall be held at the next general, special, primary, or constitutional amendment election held more than three months after final adjournment of the session of the Legislature at which this act is adopted. The election shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor. The proclamation shall be published once a week for four successive weeks immediately preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

CONSTITUTIONAL AMENDMENT

Passed the House March 17, 1994 as amended

Passed the Senate April 25, 1994

Act No. 94-612

H. 100 – Rep. Harvey

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide certain county ad valorem tax officials may participate in the Employees' Retirement System or other county retirement systems in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

A county ad valorem tax official shall not assume a supernumerary office after the effective date of this amendment except as provided in this amendment. A person who, on the effective date of this amendment, is serving as a supernumerary official, or has

made an election, or is otherwise entitled to participate in the supernumerary program provided by Title 40, Chapter 6, Code of Alabama 1975, may continue to serve or participate in the supernumerary program as provided therein.

Notwithstanding any provisions of this Constitution to the contrary including but not limited to Article IV, Section 98 as amended by Amendment No. 513, a county ad valorem tax official not electing to participate in a supernumerary program or not eligible to participate in a supernumerary program shall participate in the Employees' Retirement System of Alabama or any successor retirement system thereto if the county served by the official is a county unit member of the Employees' Retirement System. Otherwise, the county ad valorem tax official shall participate in the county retirement system for employees of the county served by the official. Participation by a county ad valorem tax official in the county or state retirement system shall be upon the same terms and conditions provided by law for participation by a state or county employee in the system. Nothing in this amendment shall be construed as authorizing a person to participate in both the county ad valorem tax official supernumerary program and the Employees' Retirement System of Alabama or a county retirement system which is not a county unit participant under the Employees' Retirement System.

A county ad valorem tax official who, on the effective date of this amendment, is participating in the supernumerary program pursuant to Title 40, Chapter 6, Code of Alabama 1975, may irrevocably elect to withdraw from the supernumerary program and enroll in the Employees' Retirement System of Alabama or the county retirement system for employees of the county served by the official, if the county system is not a unit participant in the Employees' Retirement System, upon the terms and conditions provided by law or regulation governing the retirement system in which the official enrolls. The election shall be in a form prescribed by the board of control of the Employees Retirement System or the county retirement system which is not a county unit member of the Employees' Retirement system, and filed for record in the probate office of the county served by the official no later than one hundred eighty days following the effective date of this amendment.

For purposes of this amendment, the words "county ad valorem tax official" means an elected or appointed county tax assessor, tax collector, revenue commissioner, license commissioner or other county official whose duties include the assessment or collection of ad valorem taxes for the county, but do not include a judge of probate or an employee of the state.

Section 2. An election upon the proposed amendment shall be held at the next general, special, primary or constitutional

amendment election held more than three months after final adjournment of the session of the Legislature at which this act is adopted. The election shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general elections laws of this state.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor. The proclamation shall be published once a week for four successive weeks immediately preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

CONSTITUTIONAL AMENDMENT

Passed the House January 25, 1994 as amended

Passed the Senate April 25, 1994 as amended

House concurred in Senate amendment April 25, 1994

Act No. 94-613

H. 336 – Rep. Smith (C)

AN ACT

To propose a constitutional amendment to amend Sections 6.17 and 6.18 of Amendment 328 of the Constitution of Alabama of 1901, establishing the Judicial Inquiry Commission and the Court of the Judiciary, to provide that the District Judges' Association shall appoint two district judges to serve as members of the **Judicial Inquiry Commission and Court of the Judiciary**.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to Sections 6.17 and 6.18 of Amendment No. 328 to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901 as amended:

PROPOSED AMENDMENT

“6.17. Judicial inquiry commission.

“(a) A judicial inquiry commission is created consisting of nine members. The supreme court shall appoint one appellate justice or judge the circuit judges' association shall appoint two judges of the circuit court, and the district judges' association shall appoint

two judges of the district court as members of the commission. The governor shall appoint two persons who are not lawyers and the governing body of the Alabama state bar shall appoint two members of the state bar to serve as members of the commission. The commission shall select its own chair. The terms of the members of the commission shall be four years. A vacancy on the commission shall be filled for a full term in the manner the original appointment was made.

“(b) The commission shall be convened permanently with authority to conduct investigations, receive or initiate complaints concerning any judge of a court of the judicial system of this state. The commission shall file a complaint with the court of the judiciary in the event that a majority of the members of the commission decide that a reasonable basis exists, (1) to charge a judge with violation of any canon of judicial ethics, misconduct in office, failure to perform his or her duties, or (2) to charge that the judge is physically or mentally unable to perform his or her duties. All proceedings of the commission shall be confidential except the filing of a complaint with the court of the judiciary. The commission shall prosecute the complaints.

“(c) The supreme court shall adopt rules governing the procedures of the commission.

“(d) The commission shall have subpoena power and authority to appoint and direct its staff. Members of the commission who are not judges shall receive per diem compensation and necessary expenses; members who are judges shall receive necessary expenses only. The legislature shall appropriate funds for the operation of the commission.

“6.18. Court of the judiciary.

“(a) The court of the judiciary is created consisting of one judge of an appellate court, who shall be selected by the supreme court and shall serve as chief judge of the court of the judiciary, two judges of the circuit court, who shall be selected by the circuit judges’ association, two judges of the district court, who shall be selected by the district judges’ association, and two members of the state bar, who shall be selected by the governing body of the Alabama state bar. The court shall be convened to hear complaints filed by the judicial inquiry commission. The court shall have authority, after notice and public hearing (1) to remove from office, suspend without pay, or censure a judge, or apply such other sanction as may be prescribed by law, for violation of a canon of judicial ethics, misconduct in office, failure to perform his or her duties, or (2) to suspend with or without pay, or to retire a judge who is physically or mentally unable to perform his or her duties.

“(b) A judge aggrieved by a decision of the court of the judiciary may appeal to the supreme court. The supreme court shall review the record of the proceedings on the law and the facts.

“(c) The supreme court shall adopt rules governing the procedures of the court of the judiciary.

“(d) The court of the judiciary shall have power to issue subpoenas. The legislature shall provide by law for the expenses of the court.

Section 2. An election upon the proposed amendment shall be held at the next general, special, primary, or constitutional amendment election held more than three months after final adjournment of the session of the Legislature at which this act is adopted. The election shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor. The proclamation shall be published once a week for four successive weeks immediately preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

CONSTITUTIONAL AMENDMENT

Passed the House March 17, 1994

Passed the Senate April 25, 1994

Act No. 94-614

S. 375 – Senator Little

AN ACT

To provide distinctive motor vehicle license tags or plates for members of the Fraternal Order of Police; providing for the fees for these tags or plates and for the disposition of the net proceeds from the fees; and providing for a delayed effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) A member of the Fraternal Order of Police who is the owner of a motor vehicle and a resident of the state may be issued a license tag or plate bearing the words “Fraternal Order of Police” across the top portion of the tag or plate upon which, in

lieu of the numbers prescribed by law, shall be inscribed distinctive words or marks provided by the Department of Revenue. The member of the Fraternal Order of Police shall make application to the judge of probate or license commissioner, comply with the motor vehicle registration and licensing laws, pay the regular fees required by law for license tags or plates for private passenger or pleasure motor vehicles, and pay an additional fee of ten dollars (\$10).

(b) The tags or plates shall be issued, printed, and processed like other distinctive and personalized tags and plates provided for in Chapter 6 of Title 32 of the Code of Alabama 1975. The tags or plates shall be valid for five years and may be replaced with either a conventional, personalized, or new "Fraternal Order of Police" tags or plates. Payment of required license fees and taxes for the years during which a new tag or plate is not issued shall be evidenced as provided in Section 32-6-63 of the Code of Alabama 1975.

Section 2. The proceeds of the additional revenues generated by the ten dollar (\$10) fee for the "Fraternal Order of Police" tags and plates shall be deposited in the General Fund.

Section 3. As a first charge against revenues collected under this act, to offset its initial costs in administering these collections, there is appropriated to the Department of Revenue for the fiscal year ending September 30, 1994, the sum of three thousand dollars (\$3,000). The Legislature shall appropriate to the department for each fiscal year the amount of money necessary to offset any expenses the department incurs in administering and enforcing this act.

Section 4. The distinctive license plates or tags issued pursuant to this act shall not be transferable between motor vehicle owners, and in the event the owner of a vehicle bearing the distinctive plates sells, trades, exchanges, or otherwise disposes of the motor vehicle, the plates shall be retained by the owner to whom issued and returned to the judge of probate or license commissioner of the county, who shall receive and account for the tags or plates as provided in this section. In the event the owner acquires by purchase, trade, exchange, or otherwise a vehicle for which no standard plates have been issued during the current license period, the judge of probate or license commissioner of the county shall, upon being furnished by the owner proper certification of the acquisition of the vehicle and the payment of the motor vehicle license tax due upon the vehicle, authorize the transfer of the distinctive license plates or tags previously purchased by the owner to the vehicle, which plates or tags shall authorize the operation of the vehicle for the remainder of the then current license period. In the event the owner of the distinctive license plates or tags

acquires by purchase, trade, exchange, or otherwise a vehicle for which standard plates have been issued during the current license year, the judge of probate or license commissioner shall, upon proper certification of the owner and upon delivery to the official of the standard plates previously issued for the vehicle, authorize the owner of the newly-acquired vehicle to place the distinctive license plates or tags previously purchased upon the vehicle and use the plates for the remainder of the then current license period. The notice of transfer of ownership shall be made of record by the judge of probate or the license commissioner.

Any person acquiring by purchase, trade, exchange, or otherwise any vehicle formerly bearing the distinctive plates may, upon certification of the fact to the judge of probate or license commissioner of the county and the payment of the fee now required by law, purchase standard replacement plates for the vehicle which shall authorize the operation of the vehicle by the new owner for the remainder of the license period.

Section 5. Upon termination of membership with the Fraternal Order of Police, an applicant to whom a Fraternal Order of Police license plate was issued under this section shall, within 30 days, return the plate to the judge of probate or the license commissioner of the county of the applicant's residence.

Section 6. If the Fraternal Order of Police license plate deteriorates to the point where inscriptions thereon are not discernible, the owner or lessee may obtain a replacement plate according to Section 40-12-265 of the Code of Alabama 1975.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 8. This act shall become effective on January 1, 1995.

Approved April 26, 1994

Time: 2:00 P.M.

Act No. 94-615

S. 414 – Senator Mitchem

AN ACT

Relating to protective services for abused, infirm, incapacitated, neglected, exploited, sexually abused, or emotionally abused; to amend Sections 38-9-2, 38-9-6, 38-9-7, and 38-9-8, Code of Alabama 1975, to require caregivers to report suspected cases of abuse, neglect, exploitation, sexual abuse, and emotional abuse; to require

investigations within seven days following an oral report of abuse, neglect, exploitation, sexual abuse, and emotional abuse; and to relieve the county departments of human resources from the requirement of investigating reports from certain penal and mental institutions.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 38-9-2, 38-9-6, 38-9-7, and 38-9-8, Code of Alabama 1975, are amended to read as follows:

“§38-9-2.

“For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

“(1) **ABUSE.** The infliction of physical pain, injury, or the willful deprivation by a caregiver or other person of services necessary to maintain mental and physical health.

“(2) **ADULT IN NEED OF PROTECTIVE SERVICES.** A person 18 years of age or older whose behavior indicates that he or she is mentally incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others, or who, because of physical or mental impairment, is unable to protect himself or herself from abuse, neglect, exploitation, sexual abuse, or emotional abuse by others, and who has no guardian, relative, or other appropriate person able, willing, and available to assume the kind and degree of protection and supervision required under the circumstances.

“(3) **CAREGIVER.** An individual who has the responsibility for the care of a protected person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, by contract or as a result of the ties of friendship.

“(4) **COURT.** The circuit court.

“(5) **DEPARTMENT.** The department of human resources of the state of Alabama.

“(6) **EMOTIONAL ABUSE.** The willful or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication or isolation as punishment or as a substitute for treatment or care of any protected person.

“(7) **EXPLOITATION.** The expenditure, diminution, or use of the property, assets, or resources of a protected person without the express voluntary consent of that person or his or her legally authorized representative.

“(8) **INTENTIONALLY.** A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his or her purpose is to cause that result or to engage in that conduct.

“(9) **INTERESTED PERSON.** Any adult relative, friend, or guardian of a protected person, or any official or representative of a public or private agency, corporation, or association concerned with his or her welfare.

“(10) **NEGLECT.** The failure of a caregiver to provide food, shelter, clothing, medical services, or health care for the person unable to care for himself or herself; or the failure of the person to provide these basic needs for himself or herself when the failure is the result of the person’s mental or physical inability.

“(11) **OTHER LIKE INCAPACITIES.** Those conditions incurred as the result of accident or mental or physical illness, producing a condition which substantially impairs an individual from adequately providing for his or her own care or protecting his or her own interests or protecting himself or herself from physical or mental injury or abuse.

“(12) **PERSON.** Any natural human being.

“(13) **PHYSICAL INJURY.** Impairment of physical condition or substantial pain.

“(14) **PROTECTED PERSON.** Any person over 18 years of age subject to protection under this chapter or any person, including, but not limited to, persons who are senile, mentally ill, developmentally disabled, or mentally retarded, or any person over 18 years of age that is mentally or physically incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others.

“(15) **PROTECTIVE SERVICES.** Those services whose objective is to protect an incapacitated person from himself or herself and from others.

“(16) **RECKLESSLY.** A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he or she is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk shall be of such nature and degree that its disregard constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware of that risk solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of Section 13A-3-2, acts recklessly with respect thereto.

“(17) **SENILITY.** Organic brain damage caused by advanced age or other physical illness to the extent that the person so afflicted is substantially impaired in his or her ability to adequately provide for his or her own care.

“(18) **SERIOUS PHYSICAL INJURY.** Physical injury which creates a risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, protracted loss of the function of any bodily organ, or the impairment of the function of any bodily organ.

“(19) **SEXUAL ABUSE.** Any conduct that is a crime as defined in Sections 13A-6-60 to 13A-6-70, inclusive.

“§38-9-6.

“(a) An interested person may petition the court to order protective placement or other protective services for an adult for purposes of care. No protective placement or other protective services may be ordered unless there is a determination by the court that the person is unable to provide for his or her own protection from abuse, neglect, exploitation, sexual abuse, or emotional abuse. Upon a petition, setting forth the facts and name, age, sex, and residence of the person, the court of the circuit in which the person resides shall appoint a day, not more than 30 days from the filing of the petition, for the hearing on the petition. If, on the hearing of a petition, the person is not represented by counsel, the court shall appoint a guardian ad litem to represent him or her. A jury of six persons shall be impanelled for the hearing to serve as the trier of facts.

“(b) Costs of court proceedings under this chapter shall be paid as other civil court costs are paid, as provided for by law.

“(c) The court shall give preference in making a determination to the least drastic alternative considered to be proper under the circumstances, including a preference for noninstitutional care wherever possible. Before ordering the protective placement of any person, the court shall direct a comprehensive evaluation of the adult in need of services, if such an evaluation has not already been made and if it is necessary. The court may utilize available resources in the community in determining the need for placement. The department shall cooperate with the court in securing available resources for the person to be served. A copy of the comprehensive evaluation shall be provided to the guardian or to the guardian ad litem or attorney of the person if a guardian has not been appointed. The court obtaining the evaluation shall request appropriate information which shall include at least the following:

“(1) The address of the place where the person is residing and the person or agency who is providing services at present, if any.

“(2) A resume of any professional services provided to the person by the department or other agency in connection with the problems creating a need for placement.

“(3) A medical, psychological, social, vocational, and educational evaluation and review, where necessary.

“(d) The department which arranges for a protective placement shall make an evaluation and submit a written report to the court at least once every six months covering the physical, mental, and social condition of each person for whom it is acting and shall recommend an alternative arrangement where appropriate.

“(e) Any record of the department or other agency pertaining to such a person shall not be open for public inspection. Information in a record shall not be disclosed publicly in such a manner as to identify individuals, but may be made available on application for cause to persons approved by the commissioner of the department or by the court.

“(f) Placement may be made in an appropriate alternative living arrangement such as a licensed nursing home, licensed personal care facility, or approved foster care home. No person shall be committed to a mental health facility under this chapter.

“(g) If the person is eligible for the adult services program of the department, usual department policies shall be followed in regard to fees or payments, or both. If the person’s income or resources, or both, make him or her ineligible for department services other than protective services, payment for services in relation to his or her evaluation, and to his or her care in a protective setting is to be made from his or her income or resources, or both. A guardian, a conservator, or both, may be appointed by the court. The department shall not be appointed as guardian or conservator and shall not be appointed custodian other than for the limited purpose, where appropriate, of transporting an adult for protective placement as ordered by the court. If it is agreeable with the person to be served, the court may appoint a guardian, or conservator, or both, having the same powers, duties, and obligations, including having a bond, as a guardian of an incapacitated person or a conservator under the Alabama Uniform Guardianship and Protective Proceedings Act and it shall not be necessary to have a hearing on that issue; otherwise, the court may appoint a guardian, a conservator, or both, following the procedures provided by the Alabama Uniform Guardianship and Protective Proceedings Act. If a jury is requested or required, the jury impanelled in this court according to subsection (a) of this section shall serve that function.

“(h) When any adult in need of protective services is unable to manage his or her estate and because of the inability is in danger of being reduced to poverty and want, an interested person may petition the court to preserve the estate of the person, to direct use of the estate for the needs of the person and for the general relief of the person.

“(i) No civil rights are relinquished as a result of any protective placement under this chapter. Nothing in this chapter shall be construed to authorize or require medical care or treatment for a person in contravention of his or her stated or implied objection upon the grounds that the medical care and treatment conflict with his or her religious beliefs and practices.

“(j) As far as is compatible with the mental and physical condition of the adult in need of services or claimed to be in need of services under this chapter, every reasonable effort shall be made to assure that no action is taken without the full and informed consent of the person.

“§38-9-7.

“(a) It shall be unlawful for any person to abuse, neglect, exploit, or emotionally abuse any protected person. Charges of abuse, neglect, exploitation, or emotional abuse may be initiated upon complaints of private individuals, as a result of investigations by social service agencies, or on the direct initiative of law enforcement officials.

“(b) Any person who intentionally abuses or neglects a person in violation of this chapter shall be guilty of a Class B felony if the intentional abuse or neglect causes serious physical injury.

“(c) Any person who recklessly abuses or neglects a person in violation of this chapter shall be guilty of a Class C felony if the reckless abuse or neglect causes serious physical injury.

“(d) Any person who intentionally abuses or neglects a person in violation of this chapter, shall be guilty of a Class C felony if the intentional abuse or neglect causes physical injury.

“(e) Any person who recklessly abuses or neglects a person in violation of this chapter, shall be guilty of a Class A misdemeanor if the reckless abuse or neglect causes physical injury.

“(f) Any person who emotionally abuses a person in violation of this chapter shall be guilty of a Class A misdemeanor.

“(g) Any person who exploits a person in violation of this chapter shall be guilty of a Class C felony, where the value of the property, assets, or resources exceeds one hundred dollars (\$100).

“(h) Any person who exploits a person in violation of this chapter shall be guilty of a Class A misdemeanor, if the value of the property, assets, or resources does not exceed one hundred dollars (\$100).

“(i) If a violation of this section is also a violation of any other Alabama criminal statute, then a conviction or acquittal under either statute bars prosecution under the remaining statute.

“§38-9-8.

“(a) All physicians and other practitioners of the healing arts or any caregiver having reasonable cause to believe that any protected person has been subjected to physical abuse, neglect, exploitation, sexual abuse, or emotional abuse shall report or cause a report to be made as follows:

“(1) An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, to the county department of human resources or to the chief of police of the city or city and county, or to the sheriff of the county if the observation is made in an unincorporated territory.

“(2) Within seven days following an oral report, an investigation of any alleged abuse, neglect, exploitation, sexual abuse, or emotional abuse shall be made by the county department of human resources or the law enforcement official, whichever receives the report, and a written report prepared which includes the following:

“a. Name, age, and address of the person.

“b. Nature and extent of injury suffered by the person.

“c. Any other facts or circumstances known to the reporter which may aid in the determination of appropriate action.

“(b) All reports prepared by a law enforcement official shall be forwarded to the county department of human resources within 24 hours.

“(c) The county department of human resources shall not be required to investigate any report of abuse, neglect, exploitation, sexual abuse, or emotional abuse that occurs in any facility owned and operated by the Alabama Department of Corrections or the Alabama Department of Mental Health and Mental Retardation.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:16 P.M.

Act No. 94-616

S. 590 – Senator Dial

AN ACT

Amending Sections 36-27-23 and 36-27-25, Code of Alabama 1975, to provide further for the Board of Control and the management of the Employees' Retirement System.

Be It Enacted by the Legislature of Alabama:

Section 1. §36-27-23, Code of Alabama 1975, is hereby amended to read as follows:

“§36-27-23. Board of control; medical board, actuary.

“(a) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this article are hereby vested in a board of trustees which shall be known as the board of control.

“(b) The board shall consist of 13 trustees as follows:

“(1) The governor, ex officio, who shall be chairman.

“(2) The state treasurer, ex officio.

“(3) The state personnel director, ex officio.

“(4) The director of finance, ex officio.

“(5) Three members of the retirement system, to be appointed by the governor, no two of whom shall be from the same department of the state government nor from any department of which an ex officio trustee is the head. The state employees appointed pursuant to this section shall be merit system employees with at least ten years of creditable state service and shall not be a department head or an assistant department head. The terms of office of the three members appointed by the governor shall begin immediately after they have qualified and taken the oath of office.

“(6) Two members of the state employees’ retirement system who shall be vested in the system and elected by a majority vote of the participating full-time state employees who are members of the said system. For their original terms, one shall serve for a two-year term and one shall serve for a three-year term. Thereafter, their successors each shall serve for a four-year term.

“a. During the month of July 1980, employees desiring to serve shall file with the state comptroller notice of their intent to run for the position. The comptroller shall cause to be prepared ballots for distribution to all state employees with their paychecks during the first pay period of August 1980. Each state payroll clerk within one week shall collect the executed ballots and return them to the comptrollers who shall forthwith tabulate the ballots and announce the results. A printout of the tabulation along with the ballots shall within three days be delivered by the comptroller to the secretary of state, who shall preserve the ballots and the printout for three months.”

b. Within 10 days of the effective date of the act adding this provision, the governor shall appoint new board members in accordance with the requirements added by this Act.

"c. At the expiration of terms of office of the respective original trustees elected under this subdivision (6) and every four years thereafter, their successors shall be elected in the same manner as provided by paragraph a. of this subdivision.

"(7) One member from the ranks of retired state employees and one member from the ranks of retired employees of a city, a county, or a public agency each of whom is an active beneficiary of the system shall be elected by a majority vote of the participating retired beneficiaries of the system. The retired state employee member shall serve for a four-year term beginning October 1, 1984, the member who is a retired employee of a city, a county or a public agency shall serve for a three-year term, beginning October 1, 1984, provided after the expiration date of the initial terms provided in this subdivision each term shall be for a period of three years.

"The retired members shall be elected in a statewide ballot conducted by the secretary-treasurer under rules promulgated by the board of control. The board of directors of the Alabama retired state employees association shall submit no more than two nominations for each retired member position. The board of control shall determine the procedure for selecting additional candidates. The ballots shall be conducted prior to October 1, 1984 and each applicable year thereafter in order that the trustees can take office by October 1, next following such election.

"(8) Two members of the retirement system who shall be employed by an employer participating pursuant to section 36-27-6, who shall be elected by a majority vote of the full-time employees of employers participating pursuant to section 36-27-6, and who are members of the system. For their original terms one shall serve a three-year term and one shall serve a four-year term. Thereafter, their successors each shall serve for a four-year term.

"The election shall be conducted by the secretary-treasurer through use of a statewide ballot in accordance with rules promulgated by the board of control, which shall include a nomination petition of not less than 50 eligible voters. The election provided herein shall be conducted prior to October 1, 1991 and each applicable year thereafter in order that the trustees can take office October 1, next following such election.

"(c) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled, except that of the trustees elected under subdivision (7) of subsection (b). In that event the vacancy for the unexpired term shall be filled by an appointment by the board of control of the employees' retirement system from a list of

three retired employees furnished him by the board of directors of the Alabama retired state employees' association.

"(d) The trustees shall serve without compensation for their services as trustees, but they shall be reimbursed from the expense fund for all necessary expenses that they may incur through service on the board of control.

"(e) Each trustee shall, within 10 days after his appointment, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board of control and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and immediately filed in the office of the secretary of state.

"(f) Each trustee shall be entitled to one vote in the board of control. Seven votes in favor of any decision shall be necessary for a decision by the trustees at any meeting of said board.

"(g) Subject to the limitations of this article, the board of control shall, from time to time, establish rules and regulations for the administration of the funds created by this article and for the transaction of its business.

"(h) The board of control, by a majority vote of all trustees, shall elect a secretary-treasurer who shall serve as the chief executive officer of the retirement system. The board of control shall engage such actuarial and other special services as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the board, with the exception of clerical employees who shall be employed under the provisions of the Merit System Act, and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board shall approve.

"(i) The board of control shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system.

"(j) The board of control shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

“(k) The attorney general of the state shall be the legal adviser of the board of control.

“(l) The board of control shall designate a medical board to be composed of three physicians not eligible to participate in the retirement system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this chapter and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of control its conclusions and recommendations upon all matters referred to it.

“(m) The board of control shall designate an actuary who shall be the technical adviser of the board of control on matters regarding the operation of the funds created by the provisions of this article and shall perform such other duties as are required in connection therewith.

“(n) Immediately after the establishment of the retirement system the actuary shall make such investigation of the mortality, service and compensation experience of the members of the system as he shall recommend and the board of control shall authorize, and, on the basis of such investigation, he shall recommend for adoption by the board of control such tables and such rates as are required in subsection (o) of this section. The board of control shall adopt tables and certify rates and, as soon as practicable thereafter, the actuary shall make a valuation based on such tables and rates of the assets and liabilities of the funds created by this article.

“(o) In 1948, and at least once in each five-year period thereafter, the actuary shall make an actuarial investigation into mortality, service and compensation experience of the members and beneficiaries of the retirement system and shall make a valuation of the assets and liabilities of the funds of the system and, taking into account the results of such investigation and valuation, the board of control shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary and certify the rates of contribution payable by the state under the provisions of this article.

“(p) On the basis of such tables as the board of control shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system created by this article.

Section 2. §36-27-25, Code of Alabama 1975, is hereby amended to read as follows:

“§36-27-25. Same — Management.

“(a) The board of control shall be the trustees of the several funds of the employees’ retirement system created by this article as provided in section 36-27-24 and shall have full power to invest and reinvest such funds, through its secretary-treasurer in such classes of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds or other investments as the board of control may from time to time approve, subject to all the terms, conditions, limitations and restrictions imposed by the laws of Alabama upon domestic life insurance companies in the making of their investment. Subject to like terms, conditions, limitations and restrictions, the board of control, through its secretary-treasurer, shall have full power to hold, purchase, sell, assign, transfer and dispose of any such investments in which such funds created in section 36-27-24 shall have been invested as well as the proceeds of said investments and any moneys belonging to such funds. No purchase of stocks or other so-called equity securities shall be made for such funds which shall cause the total of such stocks or equity securities held in such funds at any one time to exceed 20 percent of the total book value of all investments held in such funds.”

(b) The Governor ex officio, shall be chairperson of the board of control. At the board meeting when the new positions created by the act adding these provisions are sworn into office, the board of control shall elect from its membership a vice-chairperson who shall have at least three years of service experience on the board. The vice-chairperson shall serve a term concurrent with that of the position of investment committee place No. 1.

“(c) The secretary-treasurer shall have the authority and it shall be his duty to carry out the investment policies fixed by the board of control and, pursuant thereto, he shall examine all offers of investments made to such funds, shall initiate inquiries as to available investments therefor, shall review periodically the investment quality and desirability of retention of investments held and shall from time to time make such purchases and sales of investments as he shall deem to the best interests of such funds and as the investment committee provided for in subsection (c) of this section and as the consultant to the secretary-treasurer, if any, appointed by the board of control under subsection (d) of this section, to the extent of the purpose for which it is appointed, shall approve.

“(d) The board of control shall provide for an investment committee which shall consist of three members of the board, one of whom shall be the director of finance. At the first board meeting

held after the effective date of the act adding this provision, two members of the board, who individually have at least three years of service experience on the board, shall be elected to serve on the investment committee in positions designated as places No. 1 and No. 2. The person elected to serve in place No. 1 shall serve for an initial term of one year while the person elected to serve in place No. 2 shall serve for an initial term of two years. Successor terms for both places on the committee shall be for two years and successor candidates for the elected places shall meet the aforementioned board service experience requirement. The investment committee shall consider all investment recommendations made by the secretary-treasurer and shall either approve or disapprove the same. The investment committee may act through the affirmative vote of any two of its members. Approvals may be secured informally in advance but shall in any event be confirmed by written authorization to be attached to the invoice for the transaction.

“(e) The board of control may appoint and employ as consultant to the secretary-treasurer in the purchase, sale and review of investments of said funds, to such extent as the board may designate, a bank having its principal office in the state of Alabama, having capital, surplus and undivided profits of not less than \$3,000,000.00 and having an organized investment department. The bank so appointed shall not sell securities to the retirement system other than U.S. government securities, for which no commission shall be charged.

“(f) The secretary-treasurer shall report to the board of control all purchases and sales of investments made by him pursuant to this section at least once semiannually.

“(g) The board of control shall allow annually regular interest on the mean amount for the preceding year in each of the funds, with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds and shall be credited annually thereto by the board of control from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid from the pension accumulation fund, and any excess of earnings over such amount required shall be paid to the pension accumulation fund. Regular interest shall mean such percentage rate or rates to be compounded annually as shall be set from time to time by the board of control, such rate or rates to be limited to a minimum of three percent and a maximum of four and three-fourths percent.

“(h) Funds accruing to the annuity savings fund, the annuity reserve fund, the pension accumulation fund and the pension

reserve fund shall be certified by the secretary-treasurer for deposit in the state treasury to the credit of the employees' retirement system. All moneys provided in accordance with the provisions of this chapter for administrative expenses shall be certified for deposit in the state treasury to the credit of the employees' retirement system expense fund. All payments from said funds shall be made by the state treasurer on warrants drawn by the state comptroller upon vouchers signed by two persons designated by the board of control. A duly attested copy of the resolution of the board of control designating such persons and bearing on its face specimen signatures of such persons shall be filed with the state comptroller as his authority for drawing warrants upon such voucher.

“(i) Except as otherwise provided in this article, no member of the board of control and no employee of the board shall have any direct interest in the gains or profits of any investment made by the board nor as such receive any pay or emolument for his services. No member or employee of the board of control shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the board, nor shall any member or employee of the board of control become an endorser or surety or in any manner an obligor for moneys loaned to or borrowed from the board.”

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 11:00 A.M.

Act No. 94-617

S. 37 – Senator Sanders

AN ACT

To amend Sections 32-5A-171 and 32-5A-173, Code of Alabama 1975, as amended, which relate to maximum speed limits so as to provide that the maximum speed limit on unpaved roads shall be 35 miles per hour except as otherwise provided.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 32-5A-171, Code of Alabama 1975, is hereby amended to read as follows:

“§32-5A-171.

“Except when a special hazard exists that requires lower speed for compliance with section 32-5A-170, the limits hereinafter specified or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits.

“(1) No person shall operate a vehicle in excess of 30 miles per hour in any urban district.

“(2) No person shall operate a motor vehicle in excess of 35 miles per hour on any unpaved road. For purposes of this chapter the term ‘unpaved road’ shall mean any highway under the jurisdiction of any county, the surface of which consists of natural earth, mixed soil, stabilized soil, aggregate, crushed sea shells, or similar materials without the use of asphalt, cement, or similar binders.

“(3) No person shall operate a motor vehicle on the highways in this state, other than interstate highways, at a speed in excess of 55 miles per hour at any time unless a different maximum rate of speed is authorized by the governor under authority granted in subdivision (6).

“(4) No person shall operate a motor vehicle, on an interstate highway within the state of Alabama, at a speed in excess of 55 miles per hour in urban areas of 50,000 population or more or in excess of 65 miles per hour outside urban areas unless a different maximum rate of speed is permitted or allowed by the federal highway administration, or unless a different maximum rate of speed is authorized by the governor under authority granted in subdivision (6).

“(5) Notwithstanding any provisions of this section to the contrary, no person shall operate a passenger vehicle, motor truck, or passenger bus which carries or transports explosives or flammable liquids, as defined in section 32-1-1.1, or hazardous wastes, as defined in section 22-30-3(5), in this state unless the vehicle, truck, or bus prominently displays a current decal, plate, or placard which is required by the rules or regulations of the DOT or the PSC which indicates or warns that the vehicle, truck, or bus is carrying or transporting the vehicle, truck, or bus at a rate of speed greater than 55 miles per hour at any time unless a different maximum rate of speed is authorized by the governor under authority granted in subdivision (6).

“(6) The governor is hereby specifically authorized to prescribe the maximum rate of speed whenever a different rate of speed is required by federal law in order for Alabama to receive federal funds for highway maintenance and construction.

"(7) The maximum speed limits set forth in this section may be altered as authorized in sections 32-5A-172 and 32-5A-173."

Section 2. Section 32-5A-173, Code of Alabama 1975, is hereby amended to read as follows:

"§32-5A-173.

"(a) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under this article is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

"(1) Decreases the limit at intersections;

"(2) Increases the limit within an urban district but not to more than the maximum rate of speed that may be prescribed by the governor under subdivision (6) of section 32-5A-171;

"(3) Decreases the limit on any street, unpaved road, or highway under the jurisdiction and control of any county commission or; or

"(4) Increases the limit on any street, unpaved road, or highway under the jurisdiction and control of any county commission but not to more than the maximum rate of speed that is prescribed under subdivision (3) or by the Governor under subdivision (6) of section 32-5A-171.

"(b) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this chapter for an urban district.

"(c) Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon the street or highway.

"(d) Any alteration of maximum limits on state highways or extensions thereof in a municipality by local authorities shall not be effective until the alteration has been approved by the highway department.

"(e) Not more than six alterations as hereinabove authorized shall be made per mile along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than 10 miles per hour."

Section 3. The provisions of this amendatory act shall become effective on December 1, 1994.

Approved April 26, 1994

Time: 3:17 P.M.

Act No. 94-618

S. 329 – Senator Windom

AN ACT

To amend Sections 9-12-54.1, 9-12-54.2, 9-12-54.3, 9-12-54.4, 9-12-54.5, 9-12-54.6, 9-12-54.7, and 9-12-93 by regulating further bait shrimpers, as to poundage, location of shrimp catches, and licensing restrictions, and prescribing certain criminal penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 9-12-54.1, 9-12-54.2, 9-12-54.3, 9-12-54.4, 9-12-54.5, 9-12-54.6, 9-12-54.7, and 9-12-93, Code of Alabama 1975, are amended to read as follows:

“§9-12-54.1.

“Before any person, firm, or corporation engages in the taking, catching, transporting, or selling of live saltwater shrimp or other live bait for commercial bait purposes, he or she shall have in his or her possession a live bait shrimp dealers license. The license shall be sold and issued by the department of conservation and natural resources to any live bait shrimp dealer upon payment of a fee of fifty dollars (\$50), which shall entitle the person to sell live shrimp or other live bait from a place of business and operate one boat and truck, or one hundred dollars (\$100) for the right to sell live shrimp or other live bait from a place of business and operate two boats and two trucks. Detailed records of transactions involving shrimp shall be maintained at the place of business by seafood dealer licensees and by live bait shrimp dealers who are party to the transaction. The records shall include the name and address of the seller, the date and time of purchase, the amount of purchase (by poundage of purchase), price paid per pound, and shrimp size. Transactions on sales of purchased shrimp shall be totaled daily. These records shall be immediately available for inspection by the Department of Conservation and Natural Resources and shall be maintained for a minimum of 30 days. If the licensee or dealer fails to keep these records, the licensee or dealer is subject to the penalties set forth in Section 9-12-54.7. If the licensee or dealer is found to have kept fraudulent records, the licensee or dealer shall be guilty of a Class A misdemeanor. The department of conservation

and natural resources shall not issue a live bait shrimp dealers license until the applicant has furnished to the commissioner of conservation and natural resources information as the commissioner may prescribe showing that the applicant has the necessary equipment and facilities to properly keep shrimp alive for sale as bait. The commissioner, before the issuance of a license, shall cause an inspection of the gear and equipment, place of business, truck, or vessel of the applicant to ascertain if they meet the requirements for keeping bait shrimp alive. The live bait shrimp dealers license may be revoked at any time during the issuing year that an agent of the commissioner of conservation and natural resources finds that equipment, gear, truck, or vessel of the licensee no longer meets the minimum requirements for keeping shrimp alive for sale as bait. Any person who sells, exchanges, barter, or attempts to sell, barter, exchange, or otherwise dispose of live shrimp or other live bait, shall be in violation of sections 9-12-54.1 through 9-12-54.7 unless he or she first purchases the annual live bait shrimp dealers license."

"§9-12-54.2.

"All licenses required herein shall expire on the 30th day of September of each year and shall be purchased between October 1 and December 31 of each year. All receipts shall be deposited to the marine resources fund. Nonresidents shall pay a license fee equal to that charged Alabama residents to conduct the same activity in the state of residence of the applicant and in no event less than double that of citizens of the State of Alabama."

"§9-12-54.3.

"Each live bait licensee shall furnish the marine resources division of the department of conservation and natural resources with the Alabama marine police registration number of the boat or boats and the tag number of the truck or trucks he or she designates to use as a licensee. Boats licensed for live bait may not be licensed as commercial shrimping vessels in that license year. A live bait licensee shall not substitute another boat or truck without first having the boat or truck inspected and approved by the marine resources division of the department of conservation and natural resources. Each bait catcher boat shall contain the words 'live bait' in letters at least six inches high on the port and starboard sides."

"§9-12-54.4.

"Licensed live bait catcher boats may take or catch, or attempt to take or catch, bait shrimp of any size in waters of the state south of the mouth of the Mobile river and the Battleship parkway not permanently closed to shrimping. Licensed live bait catchers may

take or catch, or attempt to take or catch, shrimp from 4:00 o'clock a.m. until 10:00 o'clock p.m. in areas closed to commercial shrimping. The shrimp shall not be taken with any seine or trawl having a width greater than 16 feet as measured at the cork line or main top line when any area, other than areas permanently closed to shrimping by statute or regulation, is closed to commercial shrimping and in designated exclusive bait areas. Shrimp can be sold only when alive or with heads attached. Dead shrimp must be packaged and sold with head attached in lots of no more than one pound. No holder of a live bait shrimp license shall have in his or her possession pursuant to such license more than one standard shrimp basket (measuring 17 inches in diameter at the top, 13.5 inches at the bottom and 14 inches in height) of shrimp live or dead per boat or truck and no more than three standard shrimp baskets per place of business and such shrimp shall be sold only as bait."

"§9-12-54.5.

"Persons with a recreational boat shrimping license may use a trawl having a width of 16 feet or less as measured at the cork line to catch, or attempt to catch, saltwater shrimp for bait or noncommercial purposes not to exceed five gallons of shrimp per person per day only at the same time and in the waters open to commercial shrimping."

"§9-12-54.6.

"All rivers, bayous, and creeks of the state are permanently closed to the taking of saltwater shrimp for any purpose. Wolf Bay, that area encompassing the water within the boundary from the south shore of Wolf Bay northward to Beacon #86 on the north side of the Gulf Intracoastal Waterway then westward along the north side of the Gulf Intracoastal Waterway to Beacon #94 then south across the Gulf Intracoastal Waterway to the south shore of Wolf Bay; Oyster Bay, that area encompassing the waters of Oyster Bay except those waters north of the Gulf Intracoastal Waterway; that area encompassing those waters in the mouth of the Blakely River between the I-10 bridge and the Highway 90 (old causeway) bridge; Terry Cove (Baldwin county); Arlington Channel; East Fowl River from Beacon 5 and 6 to the mouth of the river; Bayou La Batre Channel from Bayou La Batre Channel B.C. Beacon to the mouth of Bayou La Batre; and Dauphin Island Bay (Mobile county) shall be designated as exclusive bait shrimping areas and shall remain open to licensed and recreational live bait shrimping year around during the hours of 4:00 o'clock a.m. until 10:00 o'clock p.m. provided that the shrimping activity complies with all other statutes and regulations promulgated by the commissioner of the department of conservation and natural resources concerning shrimping activity."

“§9-12-54.7.

“Violation of any of the provisions hereof by any person or persons shall be an offense against the state of Alabama, and violators shall, upon conviction, be fined not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500) for the first offense. For a subsequent offense occurring within 12 months of the first offense, the violator shall, upon conviction, be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and the live bait dealer’s license shall be suspended by the Department of Conservation and Natural Resources for six months.”

“§9-12-93.

“It shall be unlawful for any person to use any boat for the purpose of drawing a seine or trawl used in catching shrimp or hauling or carrying shrimp without first having secured an annual license due and payable on or before the opening date of the season as set by the commissioner of conservation and natural resources in each and every year as follows: For each and every boat owned by a resident of this state, there shall be an annual license fee of fifty dollars (\$50) for commercial boats under 30 feet in length, seventy-five dollars (\$75) for commercial boats from 30 to 45 feet in length, one hundred dollars (\$100) on commercial boats over 45 feet in length, and fifteen dollars (\$15) on all recreational boats regardless of length. Recreational boats can use trawls of 16 feet or less as measured at the cork line or main top line to catch, or attempt to catch, shrimp for bait or noncommercial purposes, not to exceed five gallons per person aboard per day only at the same time and in waters open to commercial shrimping. Nonresidents shall pay a license fee equal to that paid by Alabama residents or boats to shrimp in their state but no less than double the amount provided for above, except where a nonresident is a resident of a state which has a reciprocal fishing agreement with the state of Alabama where the state does not itself charge residents of Alabama license fees in excess of those charged residents of that state. All proceeds from licenses under this section shall be placed to the credit of the marine resources fund.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:18 P.M.

Act No. 94-619

H. 418 – Rep. McClain

AN ACT

Relating to Jefferson County; regulating the operation of tanning facilities; requiring the safe and sanitary operation of tanning devices; and prescribing civil and administrative penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Jefferson County.

Section 2. For the purposes of this act, the following terms shall have the meanings respectively ascribed to them unless the context clearly indicates otherwise:

(1) DEPARTMENT. The Jefferson County Board of Health.

(2) TANNING DEVICE. Equipment that emits electromagnetic radiation of wavelengths between 200 and 400 nanometers and is used for tanning the skin, including, but not limited to, a sunlamp, tanning booth, tanning bed, or any accompanying equipment.

(3) TANNING FACILITY. A place of business that provides to its customers access to a tanning device.

Section 3. This act shall not apply to a tanning facility that uses only phototherapy devices that emit ultraviolet radiation that are used only by or under the direct supervision of a physician or an osteopathic physician licensed under Title 34, Code of Alabama 1975.

Section 4. (a) A person shall not operate a tanning facility unless the facility is permitted pursuant to this act.

(b) The department shall establish procedures for the issuance and annual renewal of permits

(c) The department may cancel, revoke, or suspend a permit to operate a tanning facility if the permittee does any of the following:

(1) Obtains or attempts to obtain a permit by fraud.

(2) Violates a provision of this act.

(d) Prior to the cancellation, revocation, or suspension of a permit, the department shall notify the permittee of the proposed action and offer to conduct a hearing regarding the proposed action. The notice and hearing, if conducted, shall endeavor to fulfill all state and federal constitutional requirements of due process of law.

Section 5. A tanning facility shall not claim or distribute promotional materials that claim a tanning device is safe or free from risk.

Section 6. A tanning facility shall be required to perform each of the following:

(1) Have an operator present during operating hours who is sufficiently knowledgeable in the correct operation of the tanning devices to inform and assist each customer in the proper use of the devices.

(2) A tanning facility shall post a warning sign in any area where a tanning device is used. Posting this sign does not absolve the facility of any liability. The sign shall state:

“DANGER, ULTRAVIOLET RADIATION

“Follow these instructions:

“a. Avoid frequent or lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury or allergic reactions. Repeated exposure can cause chronic sun damage characterized by wrinkling, dryness, fragility and bruising of the skin, or skin cancer.

“b. Wear protective eyewear. FAILURE TO USE PROTECTIVE EYEWEAR CAN RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

“c. Ultraviolet radiation from sunlamps will aggravate the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

“d. Using medications or cosmetics can increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Women who are pregnant or on birth control medication who use this product can develop discolored skin. IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN BY USING THIS DEVICE.”

(3) Perform each of the following duties before each use of a tanning device:

a. Sanitize properly the tanning device equipment, including, without limitation, handrails, headrests, and bed surfaces.

b. Provide a customer with properly sanitized protective eyewear that protects the eye from ultraviolet radiation and allows adequate vision to maintain balance.

(4) Show each customer how to use suitable physical aids, such as handrails, and floor markings, to maintain proper exposure distances recommended by the manufacturer.

(5) Use a timer on each tanning device which is accurate for any and all selected time intervals to plus or minus 10 percent.

(6) Limit each customer to the maximum exposure time recommended by the manufacturer of the tanning device.

(7) Maintain the interior temperature of the tanning facility below 100 degrees F.

(8) Display the permit of the facility in a public area of the tanning facility.

(9) Report any injury or any complaint of injury to the department on forms prescribed by the department and provide a copy of the report to the complainant. The department shall send to the United States Federal Food and Drug Administration a copy of any report of an injury occurring in a tanning facility.

Section 7. (a) A tanning facility shall not allow a minor between the ages of 14 and 17 to use a tanning device, unless the facility has on file a statement signed by the parent or legal guardian of the minor stating that the parent or legal guardian has read and understands all warnings the tanning facility is required to post, consents to the minor using the tanning device, and agrees that the minor will use the provided protective eyewear.

(b) A minor under the age of 14 shall be accompanied by a parent or legal guardian on the minor's initial visit and shall give written permission for the minor to use a tanning device.

Section 8. (a) The department shall inspect or investigate a tanning facility as necessary but at least annually, or as required by the regulations authorized by this act.

(b) The department may adopt necessary regulations to implement this act.

Section 9. (a) The department may impose an administrative fine in an amount not to exceed one hundred dollars (\$100) per day for any violation of this act, any regulation adopted pursuant to this act, or any term or condition of any permit issued by the department. The imposition of an administrative fine shall not preclude the department seeking other remedies, including, but not limited to, injunctive relief or the imposition of civil penalties as provided by this act. The total administrative fine shall not exceed one thousand five hundred dollars (\$1,500).

(b) In determining the amount of fine to be levied for a violation, as provided in subsection (a), each of the following factors shall be considered:

(1) The extent and severity of any violation of this act, or the regulations adopted pursuant to this act.

(2) Actions taken by the permittee to correct the violation.

(3) Any previous violations by the permittee.

(c) The department may institute legal action for injunctive or other relief to enforce this act.

Section 10. The provisions of this act are cumulative to all other grants of authority of the Jefferson County Board of Health and the Jefferson County Department of Health, whether by local or general law. Any fees or charges levied or charged under the provisions or as a result of this act shall not exceed fifty dollars (\$50) per year.

Section 11. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:20 P.M.

Act No. 94-620

H. 416 – Rep. McClain

AN ACT

Relating to Jefferson County; regulating persons practicing the art of tattooing; and prescribing criminal and administrative penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Jefferson County.

Section 2. For the purposes of this act, the following words have the following meanings unless the context clearly indicates otherwise:

(1) DEPARTMENT. The Jefferson County Board of Health.

(2) **TATTOO OR TATTOOING.** The act of inserting a pigment under the skin of a human being by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin.

Section 3. No person shall apply a tattoo upon the body of another human unless the person applying the tattoo shall hold a valid permit issued by the department.

Section 4. The department shall regulate persons who practice the art of tattooing and the facilities in which they operate. A permit shall be issued annually by the department to the applicant meeting all requirements governing permit issuance as contained in the regulations governing tattoo facilities. Permits shall expire on December 31 of each year. Inspections of the facility shall be made at a frequency determined by the department, or as required by the regulations as authorized in Section 4.

Section 5. The department may adopt necessary regulations for the department to govern the application of tattoos upon the body of human beings and the sanitation of tattoo parlors or facilities.

Section 6. No person shall place a tattoo on the body of another person who is under the age of nineteen years.

Section 7. (a) Any person who violates this act or any regulation adopted pursuant to this act shall be guilty of a Class C misdemeanor.

(b) Any person who interferes with, hinders, or opposes any agent, officer, or member of the department in the discharge of his or her duties pursuant to this act shall be guilty of a Class C misdemeanor.

(c) Any person who fails to comply with a lawful order issued pursuant to this act within the time prescribed by the department shall be guilty of a Class C misdemeanor.

(d) The department may impose an administrative fine in an amount not to exceed one hundred dollars (\$100) per day for any violation of this act, any regulation adopted pursuant to this act, or any term or condition of any permit issued by the department. The imposition of an administrative fine shall not preclude the department seeking other remedies, including, but not limited to, injunctive relief or the imposition of criminal penalties as provided by this act.

(e) In determining the amount of the fine to be levied for a violation, as provided in subsection (d), each of the following factors shall be considered:

(1) The extent and severity of any violation of this act, or the regulations adopted pursuant to this act.

(2) Actions taken by the regulated person to correct the violation.

(3) Any previous violations by the regulated person.

(f) The department may institute legal action for injunctive or other relief to enforce this act.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:21 P.M.

Act No. 94-621

H. 75 – Reps. Sanderson, Curry, Newton (D),
Rogers (J), Spratt, Biddle, Barnes,
McClain, Morton, Hawkins, Gaines,
Petelos, McDowell

AN ACT

Relating to the City of Birmingham; to amend Articles V and VI of Act No. 1272, H. 620, 1973 Regular Session (Acts 1973, p. 2124) as amended, providing for the Retirement and Relief System of the City of Birmingham; providing for benefit increases and contribution reductions; providing for vesting and early retirement options for current participants; providing for additional benefits to retirees; providing for a one-half of one percent reduction in the contribution of the city and the participants if the fund is found and remains actuarially sound; and providing for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Article V of Act No. 1272, H. 620 of the 1973 Regular Session (Acts 1973, p. 2124) as amended, is amended to add additional provisions to read as follows:

Section 8. Contributions after July 1, 1994.

Beginning July 1, 1994, the contribution of the employer, excluding the board of health, and the contributions of the employees,

excluding the employees of the board of health, shall each be reduced by an amount equal to one-half of one percent of payroll; and thereafter, beginning July 1, 1995, the contribution of the employer, excluding the board of health, shall be determined by the actuary of the board at the level necessary to fully fund the system but not greater than seven percent of each participant's actual monthly salary nor less than six percent of each participant's actual monthly salary. The actuary shall be required to make the determination for each actuarial year. The contribution of the employees, excluding board of health employees, shall be the same as the contribution of the employer.

Section 9. Employer Pickup of Employee Contributions.

The board of managers upon approval of each employer, including the board of health, shall have authority to adopt a program and plan amendments relating to that employer's employees meeting the requirements of the United States Internal Revenue Code, as amended, to allow employer payment of required participant contributions in lieu of salary or wages.

Section 2. Article VI of Act No. 1272, H. 620 of the 1973 Regular Session (Acts 1973, p. 2124) as amended, is amended to add additional provisions to read as follows:

Section 24. Supplemental Benefit.

In addition to the benefits described herein for normal retirement, ordinary disability, and extraordinary disability, every participant retired from city service or receiving a disability benefit immediately following having been in the city service, which participant did not have active city service after July 1, 1989, did not retire after July 1, 1990, or did not otherwise become eligible for a benefit calculated at 2.25 percent per year after July 1, 1990, shall receive after three years of retirement or disability under this system an increase in monthly benefit in the amount of one hundred and fifty dollars (\$150). Present and future surviving spouses or the survivors of the retirees (who are not entitled to the 2.25 percent of the final average salary), shall receive a monthly benefit increase in the amount of the percent of the one hundred and fifty dollars (\$150) the surviving spouse or the survivor would normally be entitled to receive pursuant to Article VI, Section 10 to Section 13, inclusive, of Act No. 929. This section shall be effective retroactively to January 1, 1994, with payment to begin as soon as administratively possible, with retroactive payment and no interest. No participant receiving or entitled to a benefit calculated at more than two percent per year of service shall be eligible for the one hundred and fifty dollars (\$150) per month payment. No amounts shall be paid if at any time the contributions to the fund do not cover the normal cost of the fund.

This provision shall not apply to retirees or disability recipients from the Jefferson County Board of Health.

Section 25. Vesting.

Participants of the City of Birmingham and other participating entities except the board of health shall, upon termination of the employment after ten years of actual service to the city or other employing participating entity, have the option to leave in the system fund all contributions made by the terminated employee and receive a monthly retirement benefit beginning at age 62, in an amount equal to 2.25 percent of the employee's monthly final average salary multiplied by his or her years of credited service. The benefit shall continue throughout the life of the retiree. A survivor's benefit calculated as described in Article VI, Section 10, shall be provided to the survivors of the retiree pursuant to this provision if the retired employee has reached age 62. In the event that a terminated employee dies prior to receiving a benefit hereunder, or a terminated employee elects at any time to withdraw the contributions from the system fund, then the contributions shall be paid to the employee or his or her designee without interest and the terminated employee and those claiming under him or her, shall have no further rights in the fund. The amount payable, calculated at 2.25 percent per year of credited service, shall be reduced by being calculated at two percent per year of credited service if for any reason current service retirees receive less than 2.25 percent per year of credited service.

Section 26. Early Retirement Benefit.

Participants in the City of Birmingham and other participating employing entities except the board of health, having attained age 55 or older and completed 25 or more years of credited service, shall be entitled, upon voluntary retirement, to a monthly retirement benefit equal to 1.85 percent of the monthly final average salary of the participant multiplied by the participant's years of credited service. Subject to the provisions of Section 19 of Article VI, the amount of any retirement benefit provided pursuant to this section shall continue to accrue throughout the life of the retiree. Survivors of participants retiring shall receive all survivors' benefits available to normal retirees who are eligible for benefits under Section 1 of Article VI.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:22 P.M.

Act No. 94-622

H. 123 – Rep. Pénry

AN ACT

To amend Section 40-23-100, Code of Alabama 1975, to provide further for definitions including a definition for a motorboat; to amend Section 40-23-101, Code of Alabama 1975, to levy a sales tax on certain motorboats; to amend Section 40-23-102, Code of Alabama 1975, to provide for the levy of a use tax on certain motorboats; to amend Section 40-23-103, Code of Alabama 1975, to provide credit where items are taken in trade in a sale subject to the tax; to amend Section 40-23-104, Code of Alabama 1975, to provide further for the procedures for the collection of the taxes levied hereunder; to amend Section 40-23-106, Code of Alabama 1975, to provide for reciprocity with states that provide a credit for Alabama taxes; to amend Section 40-23-107, Code of Alabama 1975, to provide further for fees for the collection of taxes levied; to amend Section 40-23-108, Code of Alabama 1975, to provide for distribution of the tax proceeds; to amend Section 33-5-11, Code of Alabama 1975; to provide further for the registration and numbering of vessels; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 3, Chapter 23, Title 40, Code of Alabama 1975; to repeal Section 40-23-109, Code of Alabama 1975; to repeal Act No. 93-711, 1993 Regular Session, now appearing as Sections 40-23-112, to 40-23-118, inclusive, Code of Alabama 1975; and to provide for a prospective effective date of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-23-100, Code of Alabama 1975, is amended to read as follows:

“§40-23-100.

“As used in this article, unless the context otherwise requires, the following terms shall have the following meanings:

“(1) **JUDGE OF PROBATE.** The judge of probate or other licensing authority in a county.

“(2) **LICENSING OFFICIAL.** The county official required by law to issue licenses for any automotive vehicle, motorboat, truck trailer, trailer, semitrailer, or travel trailer taxed under this article.

“(3) **MOTOR BOAT.** A boat with one or more built-in motors or a boat with an outboard type motor or motors attached thereto by attachments intended to be permanent rather than readily removable and which motor or motors are controlled with remote controls built on or into the hull of the boat.”

Section 2. Section 40-23-101, Code of Alabama 1975, is amended to read as follows:

“§40-23-101.

“(a) There is hereby levied and shall be collected as herein provided a sales tax upon every person, firm, or corporation purchasing

within this state, other than at wholesale, any automotive vehicle, motorboat, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed with the judge of probate of any county in this state from any person, firm or corporation that is not a licensed dealer engaged in selling automotive vehicles, motorboats, truck trailers, trailers, semitrailers, or travel trailers in an amount equal to two percent of the purchase price.

“(b) Commencing October 1, 1989, there is hereby levied and shall be collected, as provided for under the provisions of subsection (e) of Section 40-23-104, a sales tax in the amount equal to two percent of the purchase price on the sale of any manufactured home as defined in subsection (n) of Section 40-12-255, purchased other than at wholesale in this state from any person, firm, or corporation which is not a licensed dealer engaged in selling manufactured homes.

“(c) In addition to the two percent state sales tax, there shall also be collected any applicable municipal gross receipts or sales taxes and county sales taxes on the vehicles listed in subsection (a) of this section authorized by general or local law for the local taxing jurisdiction in which the purchaser resides or, if a business, the business location. Penalties for falsifying or misrepresenting the correct taxing jurisdictions shall be as provided in subsection (b) of Section 40-29-115.”

Section 3. Section 40-23-102, Code of Alabama 1975, is amended to read as follows:

“§40-23-102.

“(a) There is hereby levied and shall be collected as herein provided, in lieu of the excise tax levied by subsection (c) of Section 40-23-61, an excise or use tax upon every person, firm, or corporation purchasing outside the state, other than at wholesale, any automotive vehicle, motorboat, truck trailer, trailers, semitrailer, or travel trailer, required to be registered or licensed with the judge of probate of any county in this state for use, storage, or other consumption within this state a tax in an amount equal to two percent of the purchase price.

“(b) Commencing October 1, 1989, there is hereby levied and shall be collected, as provided for under the provisions of subsection (e) of Section 40-23-104, an excise or use tax in the amount equal to two percent of the purchase price on the storage, use, or other consumption in the state of any manufactured home as defined in subsection (n) of Section 40-12-255 purchased other than at wholesale outside the state on or after October 1, 1989, for storage, use, or other consumption in this state.

“(c) In addition to the two percent state use tax, there shall also be collected any applicable municipal and county use tax

authorized by general or local law for the local taxing jurisdiction in which the purchaser resides, or, if a business, the business location on any automotive vehicle, motorboat, truck trailer, trailer, semitrailer, or travel trailer purchased from dealers doing business outside the State of Alabama and from licensed Alabama dealers where municipal and county sales taxes were not collected at the time of purchase. Penalties for falsifying or misrepresenting the correct taxing jurisdiction shall be as provided in subsection (b) of Section 40-29-115."

Section 4. Section 40-23-103, Code of Alabama 1975, is amended to read as follows:

"§40-23-103.

"Where any used automotive vehicle, motorboat, truck trailer, semitrailer or house trailer is taken in trade or in a series of trades as a credit or part payment on the sale of a new or used automotive vehicle, motorboat, truck trailer, semitrailer or house trailer, the tax levied in this article shall be paid on the net difference, that is, the price of the new or used vehicle, motorboat, or trailer sold less the credit for the used vehicle, motorboat, or trailer taken in trade."

Section 5. Section 40-23-104, Code of Alabama 1975, is amended to read as follows:

"§40-23-104.

"(a) The licensing official shall collect all of the following:

"(1) The taxes levied by this article.

"(2) The municipal gross receipts or sales taxes and county sales taxes authorized by general or local law on sales made by a person or firm other than a licensed dealer.

"(3) The municipal and county use taxes authorized by general or local law on sales made by dealers doing business outside the state of Alabama and on sales made by licensed Alabama dealers where municipal and county sales taxes were not collected at the time of purchase.

"(4) The state use tax on any such automotive vehicle, motorboat, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed by the judge of probate.

"(b) The licensing official shall require, as proof of the purchase price of the automotive vehicle, motorboat, truck trailer, trailer, semitrailer, or travel trailer to be taxed, when purchased from a licensed dealer in this state, documentation of the price upon which any state, county, or municipal sales tax was paid and which reflects the amount of such state, county, or municipal sales

tax paid and any other evidence of the purchase price as shall be prescribed by the department of revenue. All licensed dealers in this state shall furnish to the purchaser of any of the vehicles documentation showing the amount and rate of sales or gross receipts tax collected at the time of purchase for the state and for the municipality and county where the sale was made.

“(c) The licensing official shall require, as proof of the purchase price of any other automotive vehicle, motorboat, truck trailer, trailer, semitrailer, or travel trailer to be taxed, the presentment of a sworn report by the purchaser reflecting such purchase price on a form to be provided by the department of revenue accompanied by a properly executed bill of sale or other satisfactory evidence prescribed by the department of revenue.

“(d) In lieu of the requirements contained in subsection (c) of this section, the purchaser may stipulate to the licensing official that the purchase price of the automotive vehicle, motorboat, truck trailer, trailer, semitrailer, or travel trailer to be taxed is equivalent to a standard value for the year, make, and model established by the department of revenue for the taxable item. The purchase price so stipulated shall be conclusively presumed to be the purchase price of the item for all purposes under this article.

“(e) Before the registration of or licensing of any such automotive vehicle, motorboat, truck trailer, trailer, semitrailer, or travel trailer, the licensing official shall require proof of payment of the tax levied under this article deemed necessary and proper.

“(f) Before the decal, which is provided for by section 40-7-1, is issued to evidence payment of the ad valorem tax due on a manufactured home in this state, and before any homestead exemption is granted for a manufactured home, payment of the tax levied either under section 40-23-101(b) or section 40-23-102(b) shall be made to the licensing official of the county in which the manufactured home will be initially sited as evidenced by a properly executed bill of sale. If, however, the sales or use tax specified in either sections 40-23-101(b) or 40-23-102(b) has been paid prior to the due date of the ad valorem tax on the manufactured home, then proof of payment for the sales or use taxes will be evidenced by a receipt and shall be deemed acceptable by the licensing official.

“(g) Any law to the contrary notwithstanding, the licensing official shall remit all county and municipal sales, gross receipts, and use taxes collected directly to the appropriate county or municipal tax recipient as otherwise provided by law, within 20 days following the last day of the month in which those taxes were collected. In addition to all other penalties, for failure to comply with this section shall be as provided in Chapter 29, Article 6.”

Section 6. Section 40-23-106, Code of Alabama 1975, is amended to read as follows:

“§40-23-106.

“If a sales or use tax equal to or in excess of the amount of the tax imposed by this article is paid to another state under a requirement of the law of that state, the automotive vehicle, motorboat, truck trailer, semitrailer, or house trailer which is the subject of the tax when it is imported for use, storage, or consumption in this state shall not be subject to the use tax imposed by this article. If the amount of the tax paid to another state is less than that imposed by this article, then the difference shall be paid. However, no credit shall be allowed for taxes paid on any automotive vehicles, motorboats, truck trailers, semitrailers, or house trailers in any other state which does not extend credit for taxes paid on similar property in Alabama. The licensing official shall require proof of payment of tax in another state deemed necessary and proper.”

Section 7. Section 40-23-107, Code of Alabama 1975, is amended to read as follows:

“§40-23-107.

“For making the collection of taxes levied under authority of this article, the licensing official shall be entitled to a fee in an amount equal to five percent of all revenue collected under this article each month. The fee shall be for the use of the licensing official. The fee shall be deducted from the tax collections each month and the remainder of the collections shall be remitted to the department of revenue. Notwithstanding the foregoing, the fee shall be disallowed unless the collections are remitted to the department of revenue within the time allowed by law. In all counties where the licensing official is paid on a salary instead of a fee basis, all fees allowed under the terms of this section to be paid to the licensing official shall be paid, by the licensing official, into the county treasury, or to the official performing the duties of county treasurer.”

Section 8. Section 40-23-108. Code of Alabama 1975, is amended to read as follows:

“§40-23-108.

“The licensing official shall, after the deduction of the fee as provided in section 40-23-107, remit the revenue collected hereunder to the department of revenue for deposit as follows:

“Of the total two cents (\$.02) tax on each dollar of sale, \$.015 or 75% of the total tax generated shall be deposited to the credit of

the Alabama special educational trust fund; and \$.005, or 25% of the total tax generated shall be deposited to the credit of the state general fund. Provided, however, of the total of those funds derived from the state sales and use taxes collected on motorboats, 50 percent shall be paid to the State General Fund and 50 percent to the Special Educational Trust Fund."

Section 9. Section 33-5-11, Code of Alabama 1975, is amended to read as follows:

"§33-5-11.

"The owner of each vessel requiring numbering by this state shall file an application for a number with the probate judges' offices, or license commissioner, in the county of residence of the purchaser, or the county in which the vessel is domiciled, or in the county where the vessel is purchased, or if purchased out of state, in the county of residence of the purchaser, or in the county where the vessel is domiciled on forms approved by the department of conservation and natural resources. The application shall be filed by the owner of the vessel and shall be accompanied by a fee in accordance with section 33-5-17. Upon receipt of the application and its approval by the authorized issuing officer, the officer shall enter the same upon the records and issue to the applicant a certificate of registration stating the number awarded to the vessel, the name and address of the owner, and a description of the vessel. The owner shall paint on or attach to each side of the bow of the vessel the annual identification number issued in such manner as may be prescribed by rules and regulations of the department of conservation and natural resources, that it may be clearly visible and be of such size as required by the Federal Boating Act of 1958 or any subsequent amendment thereto. The number shall be maintained in legible condition. The certificate of registration shall be pocket size and shall be available at all times for inspection on the vessel for which issued whenever the vessel is in operation."

Section 10. The Department of Revenue is authorized to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of Article 3, commencing with Section 40-23-100, Chapter 23, Title 40 of the Code of Alabama 1975, not in conflict with the specific provisions hereof.

Section 11. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 12. Section 40-23-109, Code of Alabama 1975, and Act No. 93-711, H. B. 611, 1993 Regular Session, now appearing as Sections 40-23-112 to 40-23-118, Code of Alabama 1975, are repealed as of the effective date of this act.

Section 13. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 26, 1994

Time: 3:23 P.M.

Act No. 94-623

H. 325 – Reps. Newton (D), Perdue

AN ACT

To amend Act No. 556 of the 1959 Regular Session (Acts 1959, p. 1376), establishing a Firemen's and Policemen's Supplemental Pension System for the City of Birmingham; to authorize the City of Birmingham as employer of the members of the Firemen's and Policemen's Supplemental Pension System to pay certain employee contributions for certain members of the system.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 556 of the 1959 Regular Session (Acts 1959, p. 1376), is amended to read as follows:

“Section 3. (a) There is established in and for the city a pension system which shall be known as Firemen's and Policemen's Supplemental Pension System. For the purpose of brevity the system will at times hereinafter be referred to as ‘the Supplemental Pension System.’

“(b) Any other provision of law notwithstanding, the City of Birmingham as the employer is authorized to enter into agreements with the members of the Firemen's and Policemen's Supplemental Pension System to adjust wages or salaries and to pay an employee's required contributions to the fund. All agreements under this section shall conform to applicable federal income tax laws, rules, and regulations.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:23 P.M.

Act No. 94-624

H.J.R. 432 – Reps. Mathis, Holley, Warren, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall (A), Hall (L), Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hilliard, Hogan, Holladay, Holmes, Hooper, Johnson, Kennedy, Knight (A), Knight (J), Kvalheim, Laird, Layson, Letson, Lindsey, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Page, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, White, Williams, Willis, Zoghby

HOUSE JOINT RESOLUTION

COMMENDING HAROLD BYRD WISE, GENEVA COUNTY,
ON OUTSTANDING PUBLIC SERVICE AND RETIREMENT.

WHEREAS, the Alabama House of Representatives notes that our former colleague, Harold Byrd Wise, distinguished Judge of Probate of Geneva County and dedicated public servant, will retire at the expiration of his current term in January 1995; and

WHEREAS, Judge Wise served as a member of the House of Representatives of the Alabama Legislature from 1970 to 1974 and he served on many important committees, including the House Insurance Committee; he has served as Judge of Probate and Chairman of the Geneva County Commission since 1977 and he served his country honorably in the United States Merchant Marines from 1944 to 1947, reaching the rank of Chief Petty Officer; and

WHEREAS, during his almost twenty-five years of public service Judge Wise has many achievements which have earned him many honors, particularly his participation in founding the Southern Alabama Regional Council on Aging, Area Agency on Aging in 1986, for which he was given the agency's Outstanding Service Award; and

WHEREAS, his care and concern for others are demonstrated by his dedicated community service in many humanitarian activities, including, Executive Board member of the Southeast Alabama Regional Planning and Development Commission, the Human Resource Development Corporation, the Foster Grandparent Program Advisory Board, American Association of Retired Persons, Geneva County Retired Senior Volunteer Program, and Geneva County Association of Service Agencies; he holds office in many of these organizations; and

WHEREAS, Judge Wise is a sterling example of practicing the Golden Rule, serving as a Sunday school teacher for 43 years and as a Deacon in Bethel Baptist Church for 42 years where his devotion has been an inspiration for many; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily commend Judge Harold Byrd Wise for his outstanding public service as Judge of Probate, Chairman of the Geneva County Commission, Legislator, and community leader, and provide a copy of this resolution for him so that he may know of our congratulations on his retirement and best wishes in all future endeavors during his well-earned retirement.

Approved April 26, 1994

Time: 3:24 P.M.

Act No. 94-625

H.J.R. 435 – Reps. Burke, Lindsey, McDaniel

HOUSE JOINT RESOLUTION

DESIGNATING FORT PAYNE, ALABAMA, AS THE "OFFICIAL SOCK CAPITAL OF THE WORLD."

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes the important role that the Hosiery Industry has played in the emergence and development of Fort Payne, Alabama; and

WHEREAS, the industry began in Fort Payne in 1907, when the "Big Mill" opened; in 1913, the mill was renamed the W. B. Davis and Sons Hosiery Mill; and

WHEREAS, over the years, the Hosiery Industry has provided a supply of steady jobs to the area, particularly during the Great Depression; over 11 million cushion-sole wool socks were manufactured and used by the military in World War II; and

WHEREAS, today in Fort Payne, there are over 150 sock mills which employ almost 5,000 persons; the average weekly production of socks is an incredible 1,000,000 dozen pairs of socks; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby designate Fort Payne, Alabama, as the "Official Sock Capital of the World" and direct that the appropriate officials of the Alabama Department of Transportation erect signs at the city limits on Interstate 59 and U. S. Highway 11.

Approved April 26, 1994

Time: 3:25 P.M.

Act No. 94-626

H.J.R. 437 – Reps. Cosby, Thomas, Bryant

HOUSE JOINT RESOLUTION

COMMENDING MRS. SADIE MOSS OF SELMA, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pleasure that the Alabama Legislature extends highest commendation and heartiest congratulations to Sadie Moss, counselor for East End and Meadowview Elementary Schools in the Selma City School System, who was recently recognized in Project Self-Esteem, a national contest promoting self-esteem among young students; and

WHEREAS, the contest, sponsored annually by Discovery Toys, Incorporated, and open to teachers across the United States, selects those teachers who develop the most impressive and innovative programs of learning activities designed to teach students to feel good about themselves; and

WHEREAS, Mrs. Moss, who was named as an "Honorable Mention" entrant in the contest, and who believes that self-esteem is essential for individuals to become the best they can be, used Scott the Dot, written by Beverly Fleming, to create an imaginative and thought-provoking lesson in self-esteem; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Mrs. Sadie Moss of Selma, Alabama, for whom a copy of this resolution of sincere regard and esteem shall be provided.

Approved April 26, 1994

Time: 3:26 P.M.

Act No. 94-627

H.J.R. 438 – Reps. Knight (A), Smith (C)

HOUSE JOINT RESOLUTION

COMMENDING SHAWNA SAULS OF THE UNIVERSITY OF MONTEVALLO FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, University of Montevallo student athlete Shawna Sauls has been chosen by Alabama Sportswriters to receive the prestigious Sington Trophy as Alabama's Collegiate Female Athlete of the Year, in recognition of outstanding contributions to her team's success; and

WHEREAS, Shawna Sauls led the University of Montevallo's women's volleyball team to a national record 12th trip to the NAIA National Volleyball Championship in San Diego, California, in her junior and senior years; and

WHEREAS, previously, she was NAIA District 27 Freshman of the Year, NAIA All-American, and led in numerous game and University records; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and recognize University of Montevallo student athlete Shawna Sauls for her many significant and outstanding accomplishments, and as the recipient of the Sington Trophy as Alabama's Collegiate Female Athlete of the Year.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared for presentation to Shawna Sauls as a token of the Legislature's high regard for her and her accomplishments.

Approved April 26, 1994

Time: 3:27 P.M.

Act No. 94-628

H.J.R. 439 – Reps. Knight (A), Smith (C)

HOUSE JOINT RESOLUTION

COMMENDING SHEENA BOWLING OF THE UNIVERSITY OF MONTEVALLO FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, University of Montevallo student athlete Sheena Bowling has been named to the 1994 Kodak Women's All-America Basketball Team for NAIA Colleges; and

WHEREAS, she is the first Montevallo athlete to be so highly honored, and one of only a few in the entire State of Alabama, thereby bringing great credit to herself, the University of Montevallo, and the State of Alabama; and

WHEREAS, Sheena Bowling has also received NAIA First-Team All-American Honors and has set several University individual records; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That University of Montevallo student athlete Sheena Bowling is hereby most highly commended and recognized for her many significant and outstanding accomplishments, including 1994 Kodak Women's All-American Honors, and her selection to the NAIA All-American First Team.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared for presentation to Sheena Bowling as a token of the Legislature's high regard for her and her accomplishments.

Approved April 26, 1994

Time: 3:28 P.M.

Act No. 94-629

H.J.R. 440 – Reps. Knight (A), Smith (C)

HOUSE JOINT RESOLUTION

COMMENDING JUDITH M. GREEN, COACH OF THE YEAR.

WHEREAS, the Legislature of Alabama is pleased to note that the University of Montevallo Volleyball Coach Judith M. Green has served with the university and students with distinction since 1985, accumulating an eight year record of 308 wins and only 63 losses; and

WHEREAS, during the 1993-94 academic year, Coach Green has received many honors and recognitions, including her 300th win, American Volleyball Coaches Association/Tachikara 1993 Coach of the Year, NAIA District 27 Coach of the Year for the seventh consecutive year, Sington Trophy Award winner, and others too numerous to list, all of which have brought great honor and credit to the University of Montevallo and the State of Alabama; and

WHEREAS, Coach Judy Green's Montevallo teams have participated in NAIA National tournaments and have won NAIA district titles during each of the eight years she has been associated with the University of Montevallo; and

WHEREAS, Coach Judy Green embodies the qualities of leadership, teaching, and dedicated service to her students and the University of Montevallo; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Coach Judith M. Green is most highly commended in recognition of her numerous outstanding professional accomplishments.

FURTHER RESOLVED, That a copy of this resolution be provided for her as a token of our high regard for her, and for her many professional and athletic accomplishments.

Approved April 26, 1994

Time: 3:29 P.M.

Act No. 94-630

H.J.R. 446 – Rep. Box

HOUSE JOINT RESOLUTION

COMMENDING THE ADAMS MIDDLE SCHOOL BAND OF SARALAND, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, in highest commendation, recognizes the Adams Middle School Band of Saraland, Alabama, along with the eighth grade members, for outstanding achievement; and

WHEREAS, the Adams Middle School Band, under the able leadership of Director David Ellis, has achieved outstanding success over the past three years; they have received Straight Superior Ratings - District Band Competition (1991-94); Superior

Ratings - Smokey Mountain Music Festival (1991-92, 1992-93); Superior Rated Jazz Ensemble - Smokey Mountain Music Festival (1992-93); and Superior Rated Jazz Ensemble - Loyola University Jazz Festival (1993-94); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to outstanding achievement, we hereby most highly commend Director David Ellis and the Adams Middle School Band and, most particularly, the 44 members of the eighth grade class who, over the last three years, have so greatly contributed to their success.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided to Director Ellis and to the Principal for appropriate presentation and display at Adams Middle School.

Approved April 26, 1994

Time: 3:30 P.M.

Act No. 94-631

H.J.R. 448 – Rep. Lindsey

HOUSE JOINT RESOLUTION

COMMENDING O. L. "BUD" LEWIS OF BLANCHE, ALABAMA.

WHEREAS, the Alabama Legislature, in consensus of commendation, recognizes O. L. "Bud" Lewis of Blanche, Alabama, for his longtime, dedicated service to the Cherokee County Hospital and Nursing Home Board; and

WHEREAS, born July 4, 1912, in Blanche, Alabama, the son of Mark and Angie Lewis, Bud Lewis attended elementary school at Blanche, graduated from Gaylesville High School, and married the former Hazel Goodman with whom he has shared a long and happy marriage and the joy of a son, Franklin T. Lewis; and

WHEREAS, Bud Lewis began working at the Leonard Lawrence Store at Blanche in 1936, and, following employment with Brown Lumber Company for some ten years (1937-47), owned and operated his own business in Blanche until his retirement in 1972; and

WHEREAS, for more than 40 years since its origination in 1953, Mr. Lewis has served, and continues to serve, as a faithful and dedicated member of the Cherokee County Hospital and Nursing Home Board; he has further served his community as a member of the ASC Committee (1961-1979), Cherokee County

Jury Commission (1966-1982), and has been a faithful member of Blanche United Methodist Church since 1926, and an active Mason for 52 years (1942-1994); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to the Blanche/Cherokee County community, we hereby most highly commend Mr. O. L. "Bud" Lewis, for whom a copy of this resolution of sincere tribute shall be provided.

Approved April 26, 1994

Time: 3:31 P.M.

Act No. 94-632

H.J.R. 450 – Rep. Box

HOUSE JOINT RESOLUTION

COMMENDING THE SENIOR MEMBERS OF THE SATSUMA HIGH SCHOOL BAND, SATSUMA, ALABAMA.

WHEREAS, it is with highest commendation and heartiest praise that the Alabama Legislature recognizes the Senior Members of the Satsuma High School Band for outstanding achievement; and

WHEREAS, under the able directorship of Stan Chapman, Senior Band Members Sonya Atwood, Tim Charest, Tony Gerenger, Don Green, Jason Hise, Shane Smith, Jennifer Terrell, Derek Thomas, and Joy Toxey, have realized phenomenal success over their last four years at Satsuma High; and

WHEREAS, in 9th grade, they received Superior ratings at the University of Southern Mississippi, Peach Blossom Festival, and Deep South and District VII ABA Contests; in 10th grade: Superior ratings at Deep South and District VII ABA Contests; in 11th grade: Superior ratings at Valley Marching Contests and Deep South and District VII ABA Contests, and appeared at the Senior Bowl; and in 12th grade: Superior ratings at Pace, Florida Contests and Deep South and District VII ABA Contests; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most sincerely commend and congratulate the Senior Members of the Satsuma High School Band, and do further direct that copies of this resolution be provided for

Band Director Stan Chapman, each Senior Member of the band, and Principal Lee Shoquist for appropriate presentation and school display.

Approved April 26, 1994

Time: 3:32 P.M.

Act No. 94-633

H. 244 – Reps. Johnson, McClain

AN ACT

To provide that a defendant who has been adjudged in a paternity proceeding to be the father of a child may, except in the case of adoption, reopen the case upon scientific evidence that the defendant is not the father of the child.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Upon petition of the defendant in a paternity proceeding where the defendant has been declared the legal father, the case shall be reopened if there is scientific evidence presented by the defendant that he is not the father. The court shall admit into evidence any scientific test recognized by the court that has been conducted in accordance with established scientific principles or the court may order a blood test, or a Deoxyribose Nucleic Acid test of the mother, father, and child. Whenever the court orders a test and any of the persons to be tested refuse to submit to the test, the fact shall be disclosed at the trial, unless good cause is shown.

(b) The test shall be made by a qualified expert approved by the court. The expert may be called by the court or any party as a witness to testify to the test results and shall be subject to cross-examination by the parties. The test results may be admitted into evidence. If more than one test is performed and the results are conflicting, none of the test results shall be admissible as evidence of paternity or nonpaternity.

(c) Compensation of the expert witness shall be paid by the petitioner.

(d) In the event the child has been adopted the matter of paternity may not be reopened under this act.

Section 2. In any decree setting aside an order of paternity pursuant to this act, there shall be no claim for damages against the court rendering the initial order of paternity nor any reimbursement or recoupment of money or damages against the mother, the State, or any employee or agent of the State.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:34 P.M.

Act No. 94-634

H. 131 – Rep. Flowers

AN ACT

Relating to insurance, to allow domestic stock insurers and domestic mutual insurers to pay dividends from other than earned surplus only with prior approval of the commissioner, by amending Sections 27-27-37 and 27-27-38, Code of Alabama 1975; to amend Sections 27-29-1, 27-29-2, 27-29-3, 27-29-4, and 27-29-5, Code of Alabama 1975, relating to insurance; to provide further for the regulation of insurance in this state by amending the Alabama Insurance Holding Company System Regulatory Act so as to make it substantially similar to the model act; and to add a new section regarding recovery rights of the receiver of an insolvent insurer.

Be It Enacted by the Legislature of Alabama:

Section 1. The purpose of this act is to make Alabama law substantially similar to the model Insurance Holding Company System Regulatory Act adopted by the National Association of Insurance Commissioners so as to make the Alabama Department of Insurance eligible for accreditation by the National Association of Insurance Commissioners.

Section 2. Sections 27-27-37, 27-27-38, 27-29-1, 27-29-2, 27-29-3, 27-29-4, and 27-29-5, Code of Alabama 1975, are amended to read as follows:

“§27-27-37.

“(a) A domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business.

“(b) A stock dividend may be paid out of any available surplus funds in excess of the aggregate amount of surplus loaned to the insurer under section 27-27-40.

“(c) A dividend otherwise proper may be payable out of the insurer’s surplus even though its total surplus is then less than the aggregate of its past contributed surplus resulting from

issuance of its capital stock at a price in excess of the par value thereof if payment is conditioned upon receipt of the Commissioner's approval and the insurer does not pay the dividend until the Commissioner has done the following:

"(1) Approved the payment of the dividend, or

"(2) Not disapproved the payment of the dividend within 30 days after receipt of notice from the insurer of the declaration thereof.

"§27-27-38.

"(a) The directors of a domestic mutual insurer may, from time to time, apportion and pay or credit to its members dividends only out of that part of its surplus funds which represents net realized savings and net realized earnings in excess of the surplus required by law to be maintained.

"(b) A dividend otherwise proper may be payable out of the savings and earnings even though the insurer's total surplus is then less than the aggregate of its contributed surplus if payment is conditioned upon receipt of the Commissioner's approval and the insurer does not pay the dividend until the Commissioner has done the following:

"(1) Approved the payment of the dividend, or

"(2) Not disapproved the payment of the dividend within 30 days after receipt of notice from the insurer of the declaration thereof.

"§27-29-1.

"For purposes of this chapter, unless otherwise stated, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) **AFFILIATE.** The term shall include an 'affiliate' of, or person 'affiliated' with, a specific person, and shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

"(2) **COMMISSIONER.** The commissioner of insurance, his or her deputies, or the insurance department as appropriate.

"(3) **CONTROL.** The term shall include 'controlling,' 'controlled by,' or 'under common control with' and shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless

the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing five percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection (i) of section 27-29-4 that control does not exist in fact. Such 'control' as used in this section shall not be deemed to exist where proxies have been obtained by management of such insurer solely in connection with voting at an annual or other regular meeting of the shareholders of such insurer. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific finding of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

"(4) **INSURANCE HOLDING COMPANY SYSTEM.** A system which consists of two or more affiliated persons, one or more of which is an insurer.

"(5) **INSURER.** An insurance company as set forth in section 27-1-2, except that it shall not include:

"a. Agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

"b. Fraternal benefit societies; or

"c. Nonprofit medical and hospital service associations.

"Notwithstanding the foregoing, for purposes of section 27-29-3, a domestic insurer shall include any other person controlling a domestic insurer unless such other person is either directly or through its affiliates primarily engaged in business other than the business of insurance.

"(6) **PERSON.** An individual, a corporation, a partnership, a limited partnership, an association, a joint-stock company, a trust, an unincorporated organization, or any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function.

"(7) **SECURITYHOLDER.** One who owns any security of such person, including common stock, preferred stock, debt obligations, and other security convertible into, or evidencing, the right to acquire any of the foregoing.

"(8) **SUBSIDIARY.** An affiliate controlled by such person, directly or indirectly, through one or more intermediaries.

"(9) VOTING SECURITY. The term shall include any security convertible into, or evidencing, a right to acquire a voting security.

"§27-29-2.

"(a) Authorization. Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries or affiliates in accordance with the provisions contained in this section. Such subsidiaries or affiliates may conduct any kind of business, or businesses, permitted by the Constitution and the laws of this state, and their authority to do so shall not be limited by reason of the fact that they are subsidiaries or affiliates of a domestic insurer.

"(b) Additional investment authority. In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all other sections of this title, a domestic insurer may also:

"(1) Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries or affiliates, including, without limitation, domestic or foreign insurance subsidiaries or affiliates, amounts which do not exceed the lesser of 10 percent of such insurer's assets or 50 percent of the total of the insurer's capital and surplus as shown in the latest annual report of the insurer filed pursuant to subsection (a) of section 27-3-26, less the minimum capital and surplus required of said insurer for authority to transact insurance by sections 27-3-7 and 27-3-8, provided that after such investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, investments in domestic and foreign insurance subsidiaries shall be excluded, and there shall be included:

"a. Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary or affiliate, including all organizational expenses and contributions to capital and surplus of such subsidiary or affiliate, whether or not represented by the purchase of capital stock or issuance of other securities; and

"b. All amounts expended in acquiring additional common stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary or affiliate subsequent to its acquisition or formation;

"(2) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and

management of assets authorized as investments for the insurer provided that each such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subdivision (1) of this subsection or in sections 27-41-15 through 27-41-18 and 27-41-35. For the purpose of this subdivision, 'the total investment of the insurer' shall include:

"a. Any direct investment by the insurer in an asset; and

"b. The insurer's proportionate share of any investment in an asset by any subsidiary or affiliate of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of such subsidiary or affiliate;

"(3) With the approval of the commissioner, invest any amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries or affiliates, provided that after such investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

"(c) Exemption from investment restrictions. Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries or affiliates made pursuant to subsection (b) of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this title applicable to such investments of insurers.

"(d) Qualification of investment; when determined. Whether any investment pursuant to subsection (b) of this section meets the applicable requirements thereof is to be determined immediately after such investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations and the value of all previous investments in equity securities as of the date they were made.

"(e) Cessation of control. If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made such investment shall have met the requirements for investment under any other section of this title, and the insurer has notified the commissioner.

"§27-29-3.

"(a) Filing and approval requirements. No person other than the issuer shall make a tender offer for or a request or invitation

for tenders of, or enter into any agreement to exchange securities for or acquire in the open market any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved or within 15 days after any such offer, request, or invitation is made or any such agreement is entered into, such person has filed with the commissioner and has sent to such insurer a statement containing the information required by this section and such offer, request, invitation, agreement, or acquisition either:

“(1) Has been approved by the commissioner in the manner prescribed in this section; or

“(2) Expressly states that it is subject to approval by the commissioner in the manner prescribed in this section.

“An offer, request, invitation, agreement, or acquisition which contains such a condition and which is approved by the commissioner in the manner so prescribed shall be effective and binding according to its terms from the date on which it was made.

“(b) Content of statement. The statement to be filed with the commissioner under this section shall be made under oath or affirmation and shall contain the following information:

“(1) The name and address of each person by whom, or on whose behalf, the merger or other acquisition of control referred to in subsection (a) of this section is to be effected (hereinafter called ‘acquiring party’), and

“a. If such person is an individual, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past 10 years; or

“b. If such person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person’s subsidiaries; and a list of all individuals who are, or who have been selected to become, directors or executive officers of such person or who perform, or will perform, functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph a of this subdivision;

"(2) The source, nature, and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were, or are to be, obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests;

"(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement; provided, however, that in the case of an acquiring party which is an insurer actively engaged in the business of insurance, the financial statements of such insurer need not be audited, except such audit may be required if the need therefor is determined by the commissioner;

"(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets, or to merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

"(5) The number of shares of any security referred to in subsection (a) of this section which each acquiring party proposes to acquire, the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a) of this section, and a statement as to the method by which the fairness of the proposal was arrived at;

"(6) The amount of each class of any security referred to in subsection (a) of this section which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

"(7) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (a) of this section in which any acquiring party is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into;

"(8) A description of the purchase of any security referred to in subsection (a) of this section during the 12 calendar months preceding the filing of the statement by any acquiring party, including

the dates of purchase, names of the purchasers, and consideration paid, or agreed to be paid, therefor;

“(9) A description of any recommendations to purchase any security referred to in subsection (a) of this section made during the 12 calendar months preceding the filing of the statement by any acquiring party or by anyone based upon interviews or at the suggestion of such acquiring party;

“(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities referred to in subsection (a) of this section and, if distributed, or additional soliciting material relating thereto;

“(11) The terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (a) of this section for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto; and

“(12) Such additional information as the commissioner may, by rule or regulation, prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest.

“If the person required to file the statement referred to in subsection (a) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by subdivisions (1) through (12) of this subsection shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in subsection (a) of this section is a corporation, the commissioner may require that the information called for by subdivisions (1) through (12) of this subsection shall be given with respect to such corporation, each officer and director of such corporation, and each person who is, directly or indirectly, the beneficial owner of more than 15 percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other materials relevant to such change, shall be filed with the commissioner and sent to such insurer within two business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

“(c) Alternative filing materials. If any offer, request, invitation, agreement, or acquisition referred to in subsection (a) of this

section is proposed to be made by means of a registration statement under the Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (a) of this section may utilize such documents in furnishing the information called for by that statement.

“(d) Approval by commissioner; hearings.

“(1) The commissioner shall approve any merger or other acquisition of control referred to in subsection (a) of this section unless, after a public hearing thereon, he or she finds that:

“a. After the change of control, the domestic insurer referred to in subsection (a) of this section would not be able to satisfy the requirements for the issuance of a license to write the line, or lines, of insurance for which it is presently licensed;

“b. The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or to create a monopoly therein;

“c. The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders;

“d. The plans or proposals which the acquiring party has to liquidate the insurer, to sell its assets, or to consolidate or merge it with any person or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest; or

“e. The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.

“(2) The public hearing referred to in subdivision (1) of this subsection shall be held within 45 days after the statement required by subsection (a) of this section is filed, and at least 20 days' notice thereof shall be given by the commissioner to the person filing the statement. Not less than 15 days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The insurer shall give such notice to its securityholders. The commissioner shall make a determination within 30 days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be

affected thereby shall have the right to present evidence, examine and cross-examine witnesses and offer oral and written arguments and, in connection therewith, shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the circuit courts of this state. All discovery proceedings shall be concluded not later than five days prior to the commencement of the public hearing.

“(e) Mailings to stockholders; payments of expenses. All statements, amendments, or other material filed pursuant to subsections (a) or (b) of this section and all notices of public hearings held pursuant to subsection (d) of this section shall be mailed by the insurer to its stockholders within 10 business days after the insurer has received such statements, amendments, other material, or notices. The expenses of mailing shall be borne by the person making the filing. As security for the payment of such expenses, such person shall file with the commissioner an acceptable bond or other deposit in an amount to be determined by the commissioner.

“(f) Exemptions. The provisions of this section shall not apply to any offer, request, invitation, agreement, or acquisition which the commissioner by order shall exempt therefrom as:

“(1) Not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer; or

“(2) As otherwise not comprehended within the purposes of this section.

“(g) Violations. The following shall be violations of this section:

“(1) The failure to file any statement, amendment, or other material required to be filed pursuant to subsections (a) or (b) of this section; or

“(2) The effectuation, or any attempt to effectuate, an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given his or her approval thereto.

“(h) Jurisdiction; consent to service of process. The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section and over all actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the commissioner to be his or her true and lawful attorney upon whom may be served all lawful process in any action or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the commissioner and

transmitted by registered or certified mail by the commissioner to such person at his or her last known address.

“§27-29-4.

“(a) Registration. Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section and Section 27-29-5. Any insurer which is subject to registration under this section shall register within 60 days after September 3, 1973, or 15 days after it becomes subject to registration, and annually thereafter by June 1 of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration and, then, within such extended time. The commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

“(b) Information and form required. Every insurer subject to registration shall file a registration statement on a form provided by the commissioner which shall contain current information about:

“(1) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

“(2) The identity of every member of the insurance holding company system;

“(3) The following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

“a. Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

“b. Purchases, sales, or exchanges of assets;

“c. Transactions not in the ordinary course of business;

“d. Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

“e. All management and service contracts and all cost-sharing arrangements;

“f. Reinsurance agreements;

“g. Dividends and other distributions to shareholders; and

“h. Consolidated tax allocation agreements;

“(4) Any pledge of the insurer’s stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

“(5) Other matters concerning transactions between registered insurers and any affiliates as may be included, from time to time, in any registration forms adopted or approved by the commissioner.

“(c) Materiality. No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not material for the purposes of this section. Unless the commissioner by rule, regulation, or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit or investments involving one half of one percent or less of an insurer’s admitted assets as of December 31, next preceding, shall not be deemed material for purposes of this section.

“(d) Amendments to registration statements. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within 15 days after the end of the month in which it learns of each such change or addition, but at least annually, as provided in subsection (a); provided, however, that subject to section 27-29-5, each registered insurer shall so report all dividends and other distributions to shareholders within five business days following the declaration thereof.

“(e) Termination of registration. The commissioner shall terminate the registration of any insurer which demonstrated that it no longer is a member of an insurance holding company system.

“(f) Consolidated filing. The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

“(g) Alternative registration. The commissioner may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) of this section and to file all information and material required to be filed under this section.

“(h) Exemptions. The provisions of this section shall not apply to any insurer, information, or transaction if, and to the extent

that, the commissioner by rule, regulation, or order shall exempt the same from the provisions of this section.

“(i) Disclaimer. Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer’s relationship with such person, unless and until the commissioner disallows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

“(j) Violations. The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall be a violation of this section.

“§27-29-5.

“(a) Transactions with affiliates. Material transactions by registered insurers with their affiliates shall be subject to the following standards:

“(1) The terms shall be fair and reasonable;

“(2) Charges or fees for services performed shall be reasonable;

“(3) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

“(4) The books, accounts, and records of each party will be so maintained as to clearly and accurately disclose the precise nature and details of the transactions; and

“(5) The insurer’s surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs.

“(b) The following transactions involving a domestic insurer and any person in its holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into such transaction at least 30 days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period.

"(1) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments provided the transactions are equal to or exceed:

"a. With respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding;

"b. With respect to life insurers, three percent of the insurer's admitted assets as of the 31st day of December next preceding;

"(2) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit provided the transactions are equal to or exceed:

"a. With respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding;

"b. With respect to life insurers, three percent of the insurer's admitted assets as of the 31st day of December next preceding;

"(3) Reinsurance agreements or modifications thereto in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer;

"(4) All management agreements, service contracts, and all cost-sharing arrangements; and

"(5) Any material transactions, specified by regulation, which the commissioner determines may adversely affect the interests of the insurer's policyholders.

"Nothing herein contained shall be deemed to authorize or permit any transactions which, in the case of an insurer not a member of the same holding company system, would be otherwise contrary to law.

"(c) A domestic insurer may not enter into transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions

is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that such separate transactions were entered into over any 12-month period for that purpose, he or she may exercise his or her authority under Section 27-29-10.

“(d) The commissioner, in reviewing transactions pursuant to subsection (b), shall consider whether the transactions comply with the standards set forth in subsection (a) and whether they may adversely affect the interests of policyholders.

“(e) The commissioner shall be notified within 30 days of any investment of the domestic insurer in any one corporation if the total investment in such corporation by the insurance holding company system exceeds 10 percent of the corporation’s voting securities.

“(f) Adequacy of surplus. For purposes of this chapter in determining whether an insurer’s surplus as regards policyholders is reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

“(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

“(2) The extent to which the insurer’s business is diversified among the several lines of insurance;

“(3) The number and size of risks insured in each line of business;

“(4) The extent of the geographical dispersion of the insurer’s insured risks;

“(5) The nature and extent of the insurer’s reinsurance program;

“(6) The quality, diversification, and liquidity of the insurer’s investment portfolio;

“(7) The recent past and projected future trend in the size of the insurer’s surplus as regards policyholders;

“(8) The surplus as regards policyholders maintained by other comparable insurers;

“(9) The adequacy of the insurer’s reserves;

“(10) The quality and liquidity of investments in subsidiaries made pursuant to section 27-29-2. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his or her judgment such investment so warrants; and

“(11) The quality of the company’s earnings and the extent to which the reported earnings include extraordinary items.

“(g) Dividends and other distributions.

“(1) A domestic insurer shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until 30 days after the commissioner has received notice of the declaration of the dividend or distribution and has not disapproved such payment within the period or until the time the commissioner has approved the payment within the 30-day period.

“For purposes of this paragraph, an ‘extraordinary dividend or distribution’ includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of the following:

“a. Ten percent of the insurer’s surplus as regards policyholders as of the 31st day of December next preceding; or

“b. The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, for the 12-month period ending the 31st day of December next preceding.

“An extraordinary dividend or distribution does not include pro rata distributions of any class of the insurer’s own securities.

“(2) A domestic insurer subject to registration under Section 27-29-4 shall report to the commissioner all dividends to shareholders within five business days following the declaration of the dividends and not less than 10 days prior to the payment of the dividends. This report shall also include a schedule setting forth all dividends or other distributions made within the previous 12 months.

“(3) Notwithstanding any other provision of law, a domestic insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner’s approval of the dividend or distribution. Such declaration does not confer any rights upon shareholders until the commissioner has approved the payment of the dividend or distribution or the commissioner has not disapproved the payment within the 30-day period as provided in subdivision (1).

“(4) The commissioner shall assess such reasonable charges as he or she deems necessary for the review conducted pursuant to this section. All funds received shall be deposited in the State Treasury to the credit of the special examination revolving fund, from which the expenses incurred shall be paid.”

Section 3. Recovery.

(a) If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under such order

shall have a right to recover on behalf of the insurer, (i) from any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of distributions (other than distributions of shares of the same class of stock) paid by the insurer on its capital stock, or (ii) any payment in the form of a bonus, termination settlement, or extraordinary lump sum salary adjustment made by the insurer or its subsidiary to a director, officer, or employee, where the distribution or payment pursuant to (i) or (ii) is made at any time during the one year preceding the petition for liquidation, conservation, or rehabilitation, as the case may be, subject to the limitations of subsections (b), (c), and (d) of this section.

(b) No such distribution shall be recoverable if the parent or affiliate shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c) A person who was a parent corporation or holding company or a person who otherwise controlled the insurer or affiliate at the time such distributions were paid shall be liable up to the amount of distributions or payments under subsection (a) which the person received. A person who otherwise controlled the insurer at the time the distributions were declared shall be liable up to the amount of distributions he or she would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(d) The maximum amount recoverable under this section shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

(e) ~~To the extent that~~ any person liable under subsection (c) of this section is insolvent or otherwise fails to pay claims due from it pursuant to the subsection, its parent corporation or holding company or person who otherwise controlled it at the time the distribution was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation or holding company or person who otherwise controlled it.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:35 P.M.

Act No. 94-635

H. 424 – Reps. McDowell, Hill

AN ACT

To amend Section 11-45-1.1 of the Code of Alabama 1975, relating to the regulation of handguns, to specify the authority of the municipal courts to exercise concurrent jurisdiction with the district courts over violations of state handgun laws which are prosecuted as violations of municipal ordinances.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-45-1.1 of the Code of Alabama 1975, is amended to read as follows:

“§11-45-1.1.

“No incorporated municipality shall have the power to enact any ordinance, rule, or regulation which shall tax, restrict, prevent, or in any way affect the possession or ownership of handguns by the citizens of this state. The entire subject matter of handguns is reserved to the state legislature. This section shall not be construed to limit or restrict the power of a municipality to adopt ordinances which make the violation of a state handgun law a violation of a municipal ordinance to the same extent as other state law violations, or to limit or restrict the power of a municipal court to exercise concurrent jurisdiction with the district court over violations of state handgun laws which may be prosecuted as breaches of a municipal ordinance.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:36 P.M.

Act No. 94-636

H.J.R. 355 – Reps. McMillan, Penry

HOUSE JOINT RESOLUTION

DESIGNATING THE ALABAMA COMMISSION ON AGING AS THE LEAD AGENCY FOR THE EXAMINATION AND REVISION OF THE LONG-TERM CARE SYSTEM IN ALABAMA.

WHEREAS, proposed changes in the nation's health care system and related variables may have a significant impact on Alabama's senior citizens and disabled citizens; and

WHEREAS, in order to keep abreast of all the changes and to maintain the standard and level of services available to Alabama's

senior citizen population, it is imperative that the State of Alabama continue its efforts to insure that the senior citizens of this state receive the advantages of a properly managed long-term care system; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Commission on Aging is designated as the lead agency responsible for the complete examination and revision of Alabama's long-term care system and an analysis of the Senior Respite Service, Inc., program currently functioning in Austin, Texas, to ascertain if any portions of the Texas program are applicable to Alabama.

BE IT FURTHER RESOLVED, That the Department of Human Resources, the State Medicaid Agency, and the Department of Mental Health, in conjunction with the Governor, shall assist the Alabama Commission on Aging in the execution of its duties regarding the study and analysis of the Senior Respite Service, Inc., program taking into consideration the costs, demographics, the existing system of services, and related variables which impact or otherwise affect the long-term care of Alabama's senior citizens and citizens with disabilities. The Alabama Commission on Aging shall present its findings and recommendations to the Legislative Council at least 60 days prior to the 1995 Regular Session.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided the Governor and each agency listed herein.

Approved April 26, 1994

Time: 3:37 P.M.

Act No. 94-637

H.J.R. 279 – Rep. Butler

HOUSE JOINT RESOLUTION

MEMORIALIZING THE ALABAMA CONGRESSIONAL DELEGATION AND PRESIDENT CLINTON REGARDING THE PROPOSED AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958.

WHEREAS, many airlines have proposed actions in an effort to take local control away from airport authorities by taking control of local airport revenues; and

WHEREAS, the proposed actions include seeking an amendment to the Federal Aviation Act of 1958, which may require airports to operate on a break-even basis and to subsidize airline rates and charges with other revenue generated by the airports; and

WHEREAS, the proposed actions also include seeking to overturn the decision of the United State Supreme Court in *Northwest Airlines v. County of Kent*, which upheld the right of local and state government airport operators to set "compensatory" rate making methodologies for computing rates and charges at airports; and

WHEREAS, if the proposed actions are realized, the financial health of community airports may be destroyed; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Legislature go on record as opposing any proposed amendment to the Federal Aviation Act of 1958 which would take control of local airport revenues from local airports and urge appropriate action by the federal government to oppose any attempt to overturn *Northwest Airlines v. County of Kent*.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the members of the Alabama Congressional delegation and President Clinton.

Approved April 26, 1994

Time: 3:38 P.M.

Act No. 94-638 H. 299 – Reps. Beasley, Johnson, Mikell, Butler

AN ACT

To provide further for the reimbursement of health care providers by insurance companies, and to except state administered health benefit plans.

Be It Enacted by the Legislature of Alabama:

Section 1. All persons, firms, corporations, associations, health maintenance organizations, health insurance service, or preferred provider organizations, non-profit health service organizations, and any employer sponsored health benefit company providing health, accident, dental, or workmen's compensation insurance coverage, either directly or indirectly through an agent, shall reimburse health care providers, including physicians, dentists, pharmacists, podiatrists, chiropractors, optometrists, durable medical equipment and home care providers, or subscribers for covered services within 25 working days or receipt of a proper claim or invoice at the office of the insurer or its designated office.

Section 2. If a provider of insurance coverage fails to comply with Section 1, then interest shall be payable on the claim commencing on the 26th day of receipt of the claim at a rate of 1.5 percent per

month or any part of a month thereof until the claim has been paid, without any further action by the provider being required except as provided in Section 3.

Section 3. This act does not apply to claims where there is a dispute regarding the legitimacy of the claim, and the company or agency does both of the following:

(1) Notifies the provider within 2 weeks of the receipt of the claim that the claim is in dispute, and specifies which items of the claim are in dispute.

(2) Pays any undisputed portion of the claim within 30 days of receipt of the claim and makes a timely, good faith effort to resolve differences.

Section 4. The insured, or health or dental plan beneficiary may assign reimbursement for health or dental care services directly to the provider of services. Health benefits include medical, pharmacy, podiatric, chiropractic, optometric, durable medical equipment and home care services. The company or agency, when authorized by the insured, or health or dental plan beneficiary, shall pay directly to the health care provider the amount of the claim, under the same criteria and payment schedule that would have been reimbursed directly to the contract provider, and any applicable interest. This amount only applies to assigned claims. Any company or agency making a payment to the insured, or health or dental plan beneficiary, after the rights of reimbursement have been assigned to the provider of services, shall be liable to the provider for the payment. If the company or agency fails to reimburse the provider in accordance with the terms of the provider contract as provided in this act, then the provider shall be entitled to recover in the circuit or district courts of this state from the company or agency responsible for the payment of the claim an amount equal to the value of such claim plus interest and a reasonable attorneys fee to be determined by the court.

Section 5. Nothing in this act shall be construed to limit any insurer, health maintenance organization, preferred provider organization, health care service corporation, or other third party payor from determining the scope of its benefits or services or any other terms of its group and/or individual insured, subscriber or enrollee contracts nor from negotiating contracts with licensed providers on reimbursement rates or any other lawful provisions, except that the contract providing coverage to an insured may not exclude the right of assignment of benefits to any provider at the same benefit rate as paid to a contract provider.

Section 6. This act shall not apply to any persons covered under a state administered health benefit plan.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:15 P.M.

Act No. 94-639

H. 258 – Rep. Freeman

AN ACT

To amend Section 34-30-22 of the Code of Alabama 1975, to provide for the qualifications for a licensed bachelor social worker.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 34-30-22 of the Code of Alabama 1975, is amended to read as follows:

“§34-30-22.

“The state board of social work examiners shall issue a license as a ‘licensed bachelor social worker,’ a ‘licensed graduate social worker’ or a ‘licensed certified social worker’ to an applicant who:

- “(1) Is at least 19 years of age;
- “(2) Has paid an initial examination fee established by the board;
- “(3) Has passed an examination prepared by the state board for that purpose;
- “(4) Has ascribed to a professional code of ethics developed and adopted by the board; and
- “(5) Meets the following additional requirements for the level at which they are applying to be licensed:

“a. Bachelor social worker:

“1. Has a baccalaureate degree from an accredited college or university including completion of a social work program. At the end of five years from June 8, 1984, applicants who then apply must have a baccalaureate degree from an accredited college or university including completion of a social work program approved or accredited by the council on social work education;

“2. For a period of six years from May 23, 1977 an applicant may be licensed who has a baccalaureate degree from an accredited

college or university and has successfully completed two years of full-time continuous employment in a social work position under supervision approved by the board; or

“3. For a period of one year from June 1, 1994, an applicant may be licensed who has a Bachelor’s Degree in Social Work or a Bachelor’s Degree in a human services field such as Sociology, Rehabilitation Counseling, Psychology, and Guidance Counseling.

“b. Graduate social worker: has a master of social work or a doctor of social work from a college or university approved or accredited by the council on social work education.

“c. Certified social worker:

“1. Has a master of social work or a doctor of social work from a college or university approved or accredited by the council on social work education; and

“2. Has had at least two years of post-master or doctorate experience in the practice of social work under the supervision of a licensed certified social worker.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:40 P.M.

Act No. 94-640

H. 319 – Reps. Petelos, Spratt, McDowell,
Newton (D), Gaines, Biddle,
Curry

AN ACT

To grant to all peace officers except constables, whether state, county, municipal, or specially appointed under constitutional or statutory authority whose duties include the enforcement of state criminal laws the same tort liability immunity as given to all or any state officers not constitutional officers; to provide that such immunity shall extend only to such officers and their appointing authorities, and not to private employers of peace officers during their off duty hours; to require employers of off duty peace officers to have at least \$100,000 liability insurance in force to indemnify any acts of such off duty peace officer; and to provide that failure to have such insurance in force shall make individual owners or general partners or corporate officers of the employer liable for all acts taken by such peace officer in the line and scope of such private employment.

Be It Enacted by the Legislature of Alabama:

Section 1. Every peace officer, except constables, who is employed or appointed pursuant to the constitution or statutes of this state, whether appointed or employed as such peace officer by the state of a county or municipality thereof, or by an agency or institution, corporate or otherwise, created pursuant to the constitution or laws of this state and authorized by the constitution or laws to appoint or employ police officers or other peace officers, and whose duties prescribed by law, or by the lawful terms of their employment or appointment, include the enforcement of, or the investigation and reporting of violations of, the criminal laws of this state, and who is empowered by the laws of this state to execute warrants, to arrest and to take into custody persons who violate, or who are lawfully charged by warrant, indictment, or other lawful process, with violations of, the criminal laws of this state, shall at all times be deemed to be officers of this state, and as such shall have immunity from tort liability arising out of his or her conduct in performance of any discretionary function within the line and scope of his or her law enforcement duties.

Section 2. This act is intended to extend immunity only to peace officers and governmental units or agencies authorized to appoint peace officers. No immunity is extended hereby to any private non-governmental person or entity, including any private employer of a peace officer during that officer's off-duty hours.

Section 3. Every private, non-governmental person or entity who employs a peace officer during that officer's "off-duty" hours to perform any type of security work or to work while in the uniform of a peace officer shall have in force at least \$100,000 of liability insurance, which insurance must indemnify for acts the "off-duty" peace officer takes within the line and scope of the private employment. The failure to have in force the insurance herein required shall make every individual employer, every general partner of a partnership employer, every member of an unincorporated association employer, and every officer of a corporate employer individually liable for all acts taken by an "off-duty" peace officer within the line and scope of the private employment.

Section 4. The provisions of this act shall supersede all laws which are contrary to or inconsistent herewith.

Section 5. The holding by any court of competent jurisdiction that any provision, clause or phrase of this act is invalid for any reason shall not affect the validity of any remaining portions hereof.

Section 6. This act shall become effective upon the approval hereof by the Governor, or its otherwise becoming a law.

Approved April 26, 1994

Time: 3:41 P.M.

Act No. 94-641

H. 423 – Reps. McDowell, Spratt, Petelos,
Newton (D), Gaines, Biddle,
Curry, Hilliard

AN ACT

To amend Section 11-47-190 of the Code of Alabama 1947 respecting tort liability judgments against municipalities.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-47-190 of the Code of Alabama, 1975, is hereby amended to read as follows:

“Section 11-47-190. When municipality liable; joint liability of other persons or corporations.

No city or town shall be liable for damages for injury done to or wrong suffered by any person or corporation, unless such injury or wrong was done or suffered through the neglect, carelessness or unskillfulness of some agent, officer or employee of the municipality engaged in work therefore and while acting in the line of his or her duty, or unless the said injury or wrong was done or suffered through the neglect or carelessness or failure to remedy some defect in the streets, alleys, public ways or buildings after the same had been called to the attention of the council or other governing body or after the same had existed for such an unreasonable length of time as to raise a presumption of knowledge of such defect on the part of the council or other governing body and whenever the city or town shall be made liable for damages by reason of the unauthorized or wrongful acts or negligence, carelessness or unskillfulness of any person or corporation, then such person or corporation shall be liable to an action on the same account by the party so injured. However, no recovery may be had under any judgment or combination of judgments, whether direct or by way of indemnity under Section 11-47-24, or otherwise, arising out of a single occurrence, against a municipality, and/or any officer or officers, or employee or employees, or agents thereof, in excess of a total \$100,000 per injured person up to a maximum of \$300,000 per single occurrence, the limits set out the provisions of Section 11-93-2 notwithstanding.”

Section 2. The holding by any court of competent jurisdiction that any phrase or provision or other part of this act is invalid shall not affect the validity of those parts remaining.

Section 3. This act shall become effective upon its approval by the Governor or its otherwise becoming a law.

Approved April 26, 1994

Time: 3:42 P.M.

Act No. 94-642

H. 16 – Reps. Richardson, Fuller, McDaniel,
Clark (J)

AN ACT

To amend Sections 11-58-1, 11-58-2, 11-58-3, 11-58-4, 11-58-7, 11-58-12, and 11-58-13 of the Code of Alabama 1975, relating to the incorporation of municipal medical clinic boards to operate municipal medical clinics, so as to authorize counties to incorporate county medical clinic boards to operate county medical clinics.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 11-58-1, 11-58-2, 11-58-3, 11-58-4, 11-58-7, 11-58-12, and 11-58-13 of the Code of Alabama 1975, are amended to read as follows:

“§11-58-1.

“(a) When used in this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) **CLINICAL FACILITIES.** Real property for the location or better utilization of a medical clinic, buildings, parking areas, garages, storage facilities, outbuildings, machinery, equipment, furniture, and fixtures useful or desirable in the operation of a medical clinic.

“(2) **DOMICILIARY CARE FACILITY.** Homes for the aged, intermediate institutions, and related institutions, whose primary purpose is to furnish room, board, laundry, personal care, and other nonmedical services, regardless of what it may be named or called, for not less than 24 hours in any week to three or more individuals not related by blood or marriage to the owner or administrator. This kind of care implies sheltered protection and supervised environment for persons, who because of age or disabilities, are incapable of living independently in their own homes or a commercial board and room situation, yet who do not require the medical and nursing services provided in a nursing home. In these facilities, there might be available temporarily and incidentally the same type of limited medical attention as an individual would receive if he or she were living in his or her own home.

“(3) **MEDICAL CLINIC.** Any one or more of buildings or facilities operated by a county or municipal medical clinic board which serve to promote the public health, either by providing places for the diagnosis, treatment, or cure of sick or injured persons or for research with respect to any of the foregoing, including, without limiting the generality of the foregoing, hospitals, sanitoriums, nursing homes, offices for persons engaged in the diagnosis, treatment or cure of sick and injured persons, buildings to house or service equipment used for the

diagnosis or treatment of sick or injured persons or the records of the diagnosis, treatment, or research with respect to any of the foregoing and hotels and motels intended primarily for use by patients and relatives and attendants of patients or patrons of any medical clinic, as well as domiciliary facilities so long as any the domiciliary facility is required to be approved or licensed by any federal, state, or local government agency having jurisdiction in the planning or operation of health care facilities, or is owned or operated in conjunction with any nursing home. Domiciliary facilities shall not be exempt from ad valorem taxation.

(4) Medical Clinic Board. A corporation formed pursuant to this chapter for the purpose of acquiring and operating a county or municipal medical clinic."

"§11-58-2.

"(a) The purpose of this chapter is to provide for the incorporation of medical clinic boards as public agencies and instrumentalities of the state of Alabama to promote the acquisition of health facilities in order to promote the public health of the people of Alabama and also to promote the acquisition of certain other facilities for the housing and care of elderly persons.

"(b) Whenever any number of natural persons, not less than three, shall file with the governing body of any county or municipality in this state an application in writing for authority to incorporate a public corporation as a medical clinic board for the purpose of acquiring, owning, leasing, and disposing of one or more medical clinics and clinical facilities and it shall be made to appear to the governing body that each of the persons is a duly qualified elector of and owner of property in the municipality, or in the county in areas outside of municipalities located in the county, the governing body shall consider the application. If the governing body approves the application, it shall adopt a resolution, which shall be duly entered upon the minutes of the governing body declaring that it is wise, expedient, and necessary that such a corporation be formed and that the persons filing the application shall be authorized to form the corporation. Upon the adoption of the resolution, the persons who filed the application shall proceed to organize the corporation by executing and filing for record in the office of the judge of probate of the county, or in the office of the judge of probate of one or more of the counties in which any municipality is located a certificate of incorporation as provided in this chapter.

"(c) The granting of authority for the incorporation of one medical clinic board shall not preclude the granting of authority by the governing body of any municipality or county for the incorporation

of other medical clinic boards. Other medical clinic boards seeking incorporation shall be required to adopt a name or designation sufficient to distinguish them from any existing medical clinic board."

"§11-58-3.

"(a) The certificate of incorporation of any corporation organized under this chapter shall state:

"(1) The name of the corporation, which shall be a name indicating the purpose for which the corporation is organized [e.g., "The Medical Clinic Board for the (County) (City) or (Town) of _____"].

"(2) The location of its principal office and the post office address thereof.

"(3) The period for the duration of the corporation. (If the duration is to be perpetual, this fact should be stated).

"(4) The objects for which the corporation is organized.

"(5) Any other provisions not contrary to law which the incorporators choose to insert for the regulation and conduct of the affairs of the corporation.

"(b) The certificate of incorporation shall be acknowledged before an officer authorized by the laws of this state to take acknowledgment of deeds. When so acknowledged, the certificate shall be filed in the office of the judge of probate of the county, or one of the counties in which any municipality is located, and the judge of probate shall immediately file and record the certificate. Thereupon the applicants shall constitute a corporation under the name stated in the certificate of incorporation."

"§11-58-4.

"Each corporation formed under this chapter shall have a board of directors which shall constitute the governing body of the corporation, consisting of three members who shall serve without compensation, except that they shall be reimbursed for actual expenses incurred in the performance of their duties under this chapter and, at the discretion of the board of directors, may be paid a director's fee of ten dollars (\$10) for each director's meeting attended by them not to exceed a total of one hundred twenty dollars (\$120) per member per year. No member of the board shall be an officer of the municipality or county. The directors of the corporation shall be elected by the governing body of the respective municipality or county and they shall be so elected that they shall hold office for staggered terms. The first term of office of one director shall be two years, of another director shall be four years, and of a third director shall be six years, as shall be designated at the time of their election. Thereafter the term of office of each director shall be six years."

“§11-58-5.

“Each corporation formed under this chapter shall have the following powers, together with all the powers incidental thereto or necessary to the discharge thereof in corporate form:

“(1) To have succession by its corporate name for the period specified in the certificate of incorporation (which may be in perpetuity) unless sooner dissolved as provided in this chapter.

“(2) To sue and be sued and prosecute and defend civil actions in any court having jurisdiction of the subject matter and of the parties.

“(3) To have and use a corporate seal and to alter it at pleasure.

“(4) To acquire, whether by purchase, exchange, lease, construction, or otherwise one or more medical clinics and any necessary or desirable clinical facilities.

“a. Any municipal medical clinic shall be located either within the corporate limits of the municipality or within 15 miles of the corporate limits, but not within the corporate limits or police jurisdiction of any other municipality, unless the other municipality shall by resolution adopted by its governing body consent to the location within its police jurisdiction.

“b. A county medical clinic shall be located within the county in which it is incorporated.

“c. No municipal or county medical clinic shall be located outside of the county in which the board is incorporated, unless the governing body of the other county by resolution consents to the location within its boundaries.

“(5) To improve, enlarge, maintain, equip, and furnish one or more medical clinics and any necessary or desirable clinical facilities.

“(6) To lease to others one or more medical clinics or parts of clinics and any clinical facilities, to charge and collect rent therefor, to terminate any lease upon the failure of the lessee to comply with any of the lease obligations, and to grant options to renew or extend any lease upon terms and conditions as the board of directors may determine. No lease shall extend beyond the last maturity of any bonds issued by the medical clinic board or 60 years from the date of the lease, whichever is the longer, and no option to renew shall permit the extension of any lease beyond that period.

“(7) To sell, exchange and convey, to contract to sell, exchange or convey, and to grant options to any lessee to acquire any medical clinic and any clinical facilities and any or all of its properties whenever its board of directors finds it to be in furtherance of the purpose for which the corporation was organized.

"(8) To borrow money and to issue its bonds for the purpose of carrying out any of its powers.

"(9) To mortgage and pledge any one or more of its medical clinics and any or all of its clinical facilities or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues, rentals, and receipts therefrom or from any part thereof as security for the payment of the principal and interest on any bonds issued and any agreements made in connection therewith.

"(10) To enter into contracts and agreements or to do any act necessary for or incidental to the performance of the duties and the execution of its powers under this chapter.

"(11) To accept gifts, money, or property, including one or more medical clinics and clinical facilities, from any source whatsoever, subject to any conditions the board of directors approves.

"(12) To appoint and employ those officers and agents, including attorneys, as its business requires.

"(13) To provide for any insurance its board of directors deems advisable."

"§11-58-7.

"(a) All bonds issued by a corporation organized under authority of this chapter shall be solely and exclusively obligations of the corporation and shall not create an obligation or debt of any municipality or county. No county or municipality shall pledge its faith or credit for the payment of any debt incurred or bonds issued by the corporation.

"(b) Bonds may be executed and delivered at any time and from time to time, may be in the form and denominations, may be of the tenor, may be in registered or bearer form, either as to principal or interest or both, may be payable in installments and at a time or times, not exceeding 40 years from their issuance date, may be payable at a place or places, may bear interest at a rate or rates payable at a place or places and evidenced in a manner, and may contain provisions not inconsistent with this chapter as may be provided by resolution of its board of directors. Bonds issued shall be signed by the chair of its board of directors or other chief executive officer and attested by its secretary, and the seal of the corporation shall be affixed. A facsimile signature of one corporate officer may be impressed or printed on any bonds in lieu of a manual signature. Any interest coupon applicable to the bonds of the corporation shall be signed by the chair of the board of directors or other chief executive officer, but a facsimile of the signature may be impressed or printed on any interest coupon in lieu of manually signing the coupon.

"(c) Any bonds issued under the authority of this chapter may be sold at public or private sale in a manner and from time to time

as determined by the board of directors to be most advantageous. The corporation may pay all expenses, premiums and commissions which its board of directors deems necessary or advantageous in connection with the authorization, sale, and issuance of its bonds.

“(d) All bonds issued under the authority of this chapter and all applicable interest coupons shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

“(e) Whenever the principal of and interest on all bonds of a corporation payable from the revenues derived from the operation of one or more medical clinics owned by the corporation have been paid in full, its board of directors may by resolution determine that the purposes for which the corporation was formed have been substantially complied with, and shall thereupon execute and file for record in the office of the judge of probate of the county in which the corporation is organized a certificate of dissolution reciting those facts and declaring the corporation to be dissolved. The certificate of dissolution shall be executed under the corporate seal of the corporation. Upon the filing of the certificate of dissolution, the corporation shall stand dissolved, and title to all funds and properties owned by it at the time of dissolution shall vest in and be delivered to the county or municipality. The dissolution of one or more corporations under this chapter shall not cause the dissolution of other existing corporations, nor preclude the subsequent formation hereunder of other corporations.”

“§11-58-12.

“(a) Any county and any incorporated city and town may transfer and convey to its county or municipal medical clinic board, as the case may be, that is duly incorporated pursuant to this chapter, any property that may, immediately preceding the conveyance, have been owned by the county or municipality, including medical clinics and clinical facilities, hospitals and hospital facilities, and assets and any land used or useable for medical clinic or hospital purposes, whether or not the property is necessary for the conduct of the governmental or other public functions of the county or municipality. A transfer or conveyance of property shall have prior authorization by resolution duly adopted by the governing body of the county, respecting county medical clinics, or the municipality. The resolution shall have been published one time, at least five days before a transfer or conveyance is consummated, in a newspaper published in the county, respecting county medical clinics, or the municipality, regarding municipal medical clinics. If no newspaper is published in the municipality, the resolution shall be published in a newspaper published or circulated in the county the municipality is located. A transfer or conveyance may be made with or without the payment of monetary or other consideration therefor.

“(b) The foregoing authorization shall apply to any hospital, hospital assets, or other property, tangible or intangible, received by an incorporated city or town upon the dissolution of any hospital building authority incorporated under sections 22-21-130 through 22-21-155.”

“§11-58-13.

“(a) Whenever the principal of and interest on all bonds of a corporation payable from the revenues derived from the operation of one or more medical clinics owned by the corporation have been paid in full, its board of directors of the corporation may, by resolution, determine that the purposes for which the corporation was formed have been substantially complied with, and shall thereupon execute and file for record in the office of the judge of probate of the county in which the corporation is organized a certificate of dissolution, reciting those facts and declaring the corporation to be dissolved. The certificate of dissolution shall be executed under the corporate seal of the corporation.

“(b) Upon the filing of the certificate of dissolution, the corporation shall stand dissolved, title to all funds and properties owned by it at the time of dissolution shall vest in the county or municipality, and possession of the funds and properties shall be immediately delivered to the county or municipality.

“(c) The dissolution of one or more corporations under this chapter shall not cause the dissolution of other existing corporations, nor preclude the subsequent formation under this chapter of other corporations.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:43 P.M.

Act No. 94-643

H. 267 – Rep. Morrow

AN ACT

To amend Section 36-7-20, Code of Alabama 1975, to allow state agencies the option of paying the cost of an employee's travel expenses directly to a contracting facility furnishing room and board, when the employee is assigned to assist in suppressing on-going wildfires, natural disaster situations, or other emergencies.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-7-20, Code of Alabama 1975, is amended to read as follows:

“§36-7-20.

“(a) The amount allowable to a person traveling inside the state of Alabama in the service of the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees, or other like agencies for expenses other than transportation may be fixed by the governor at not less than fifty dollars (\$50) nor more than seventy-five dollars (\$75) per day, and such maximum or limit when fixed from time to time shall be uniform in operation as to all persons traveling within the state on official business. However, members of the Legislature shall be excluded from this section.

“(b) No travel allowance shall be paid for a trip of less than six hours' duration. For travel which does not require an overnight stay, the traveler shall be paid a meal allowance of 15 percent of the regular per diem rate for a trip of from six to 12 hours' duration, and for travel in excess of 12 hours' duration, the traveler shall be paid one meal allowance and one-fourth of the per diem allowance.

“(c) The per diem allowance shall not be paid to an employee stationed at the same place in the state for a period in excess of two consecutive months. After two consecutive months the amount of the allowance shall be reduced to 75 percent of the regular per diem rate per day. Notwithstanding the foregoing, this section shall not apply to officers and employees of the state of Alabama when they incur expenses representing the state of Alabama in the encouragement and promotion of trade or industrial development. On those occasions, when the representation is properly approved, those persons shall be reimbursed for the actual expenses incurred and paid by them if the representation is approved in advance in writing by the governor or by the director of finance when so designated by the governor.

“(d) This section shall not apply to examiners or other persons designated by the commissioner of insurance to examine or cause to be examined the domestic insurance corporations qualified in this state when the expense incurred by those persons shall be paid by, collected, or received from the corporations examined under section 27-2-25.

“(e) This section shall be optional with the employing agency in those instances where the employee is required to attend training sessions, schools, seminars or other like group functions at a facility when it would serve the best interests of both the state and the employee, or in those instances when the employee is assigned

to assist in suppressing on-going natural disaster situations, or other emergencies. In those cases, the cost of meals and per diem may be paid as set forth herein or by the employing agency of the state directly to the contract facility furnishing the service, but the costs of these services shall not exceed the amount allowable to the individual employee for instate travel."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:44 P.M.

Act No. 94-644

H. 93 – Rep. Gullatt

AN ACT

To amend Sections 11-51-90 and 11-51-93, Code of Alabama 1975, to increase the license issuance fees and the penalty for engaging in a business or vocation in a municipality without a license.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 11-51-90 and 11-51-93, Code of Alabama 1975, are amended to read as follows:

"§11-51-90.

"(a) All municipalities shall have the following powers:

"(1) To license any exhibition, trade, business, vocation, occupation, or profession not prohibited by the Constitution or laws of the state which may be engaged in or carried on in the city or town.

"(2) To fix the amount of licenses, the time for which they are to run, not exceeding one year, to provide a penalty for doing business without a license, and to charge a fee of not exceeding five dollars (\$5) for issuing each license.

"(3) To require sworn statements as to the amount of capital invested, value of goods or stocks, or amounts of sales or receipts where the amount of the license is made to depend upon the amount of capital invested, value of goods or stocks, or amount of sales or receipts and to punish any person or corporation for failure or refusal to furnish sworn statements or for giving of false statements in relation thereto.

"(b) The license authorized by subsection (a) of this section as to persons, firms, or corporations engaged in business in connection

with interstate commerce shall be confined to that portion within the limits of the state and where the person, firm, or corporation has an office or transacts business in the city or town imposing the license.

“(c) The power to license conferred by this division may be used in the exercise of the police power as well as for the purpose of raising revenue, or both.”

“§11-51-93.

“It shall be unlawful for any person, firm, or corporation, or agent of a firm or corporation to engage in businesses or vocations in a city or town for which a license may be required without first having procured a license therefor. A violation of this division or of an ordinance passed hereunder fixing a license shall be punishable by a fine fixed by ordinance, not to exceed the sum of five hundred dollars (\$500) for each offense, and by imprisonment, not to exceed six months, or both, at the discretion of the court trying the same, and each day shall constitute a separate offense.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 3:45 P.M.

Act No. 94-645

S.J.R. 145 – Senators Denton, Amari, Bailey, Barron, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Dial, Dixon, Ellis, Escott-Russell, Figures, Floyd, Foshee, Ghee, Hale, Hill, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Sanders, B. Smith, J. Smith, Underwood, Waggoner, Wilson and Windom

SENATE JOINT RESOLUTION

RECOGNIZING MAC PARSONS OF HUEYTOWN FOR OUTSTANDING SERVICE TO THE STATE OF ALABAMA.

WHEREAS, in his first elective office, our colleague, Mac Parsons of Hueytown, joined the State Legislature as a member of

the Alabama Senate from Jefferson County for the 1979-1983 term; and

WHEREAS, Senator Parsons, since that time, has been faithful to his promise, "I shall return," and is currently serving his fourth consecutive term, having most ably represented his Jefferson County constituents, and in the best interest of the State of Alabama, for the past 16 years; and

WHEREAS, during his legislative tenure, Senator Parsons has provided outstanding service and leadership as Chairman of the Education and the Judiciary/Civil Committees; Vice Chairman of the Rules and Local Legislation No. 2 Committees; as a member of such other committees as Judiciary, Governmental Affairs, Business and Labor Relations, Consumer Affairs and Economic Affairs; and, by appointment, on a number of interim committees; and

WHEREAS, Mr. Parsons, who has chosen not to seek election to a fifth legislative term, is a graduate of the Birmingham School of Law, and a practicing attorney; he also is a Mason, and a member of North Highlands Baptist Church, Bessemer Chamber of Commerce, and the Hueytown Quarterback Club, as well as a number of professional associations, and is a former member of the United States Army Reserve; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend our friend and colleague, Mac Parsons, for outstanding service to the Alabama Legislature and the State of Alabama for the past sixteen years, and do further direct that he receive a copy of this resolution of sincere regard, with best wishes for continuing success in all future pursuits and endeavors.

Approved April 26, 1994

Time: 3:46 P.M.

Act No. 94-646

S.J.R. 146 – Senator Dial

SENATE JOINT RESOLUTION

COMMENDING DR. SARA CREWS FINLEY, RECIPIENT OF THE 1994 DISTINGUISHED ALUMNA AWARD OF THE UNIVERSITY OF ALABAMA.

WHEREAS, it is with the highest commendation that the Alabama Legislature recognizes Dr. Sara Crews Finley, recipient

of the 1994 Distinguished Alumna award presented by the University of Alabama for her contributions to the University and the State of Alabama;

WHEREAS, Dr. Finley, a native Alabamian from Lineville, received her Bachelor's Degree from the University in 1951 and her Medical Degree from its school of medicine in 1955; and

WHEREAS, upon completion of her internship at the Lloyd Noland Hospital in Birmingham, she received the National Institute of Health Fellowship in Pediatrics at the University of Alabama Hospital and in 1961, Sara and her husband, Dr. Wayne H. Finley, received a National Institute of Health traineeship to study medical genetics at the University of Upsala in Sweden; and

WHEREAS, upon completion of their studies in Sweden, they established the first Laboratory of Medical Genetics in the south-east at the University School of Medicine in Birmingham; and

WHEREAS, in 1986 the board of Trustees established the Wayne H. and Sara Crews Finley Chair in Medical Genetics at the University of Alabama at Birmingham in recognition of their outstanding work and services, and Dr. Sara Finley was honored as the first holder of the chair; and

WHEREAS, Dr. Finley holds numerous appointments at the Medical School which includes, Senior Scientist in the Cystic Fibrosis Research Center; Associate Professor of Public Health and Epidemiology; Director, Clinical Division of Pediatric Genetics in the Department of Pediatrics; and serves as Co-director of the Center for Reproductive Health and Genetics; and

WHEREAS, Dr. Finley was named Distinguished Alumna of the School of Medicine in 1989 and one of the top ten women in Birmingham, and

WHEREAS, Drs. Wayne and Sara Finley were selected by the medical school as The Distinguished Faculty Lecturers for 1983; and

WHEREAS, Dr. Sara Finley was named in 1993 as one of the thirty-one outstanding Alumni in the history of the University of Alabama; and

WHEREAS, Dr. Sara Finley has received numerous honors and recognition which include, The National Outstanding Alumna Award from her sorority, Zeta Tau Alpha, and is the President-Elect of the Alumni Association of the University of Alabama School of Medicine; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that we hereby

recognize and commend Dr. Sara Crews Finley as the 1994 Distinguished Alumna of the University of Alabama and for the many contributions she has made to the School of Medicine and the State of Alabama.

BE IT FURTHER RESOLVED, that we hereby recognize and commend both, Drs. Wayne and Sara Finley for their work in genetics and establishing the first Laboratory of Medical Genetics in the southeastern United States and for the many contributions each has made to the Medical School and the State of Alabama.

BE IT FURTHER RESOLVED, that a copy of this resolution be presented to Dr. Sara Crews Finley as an expression of our appreciation for her dedication and professional services to the University of Alabama.

Approved April 26, 1994

Time: 3:47 P.M.

Act No. 94-647

S.J.R. 147 – Senators Dial and Hill

SENATE JOINT RESOLUTION

RECOGNIZING THE 25TH ANNIVERSARY OF THE TALLADEGA SUPERSPEEDWAY, AND MR. WILLIAM H. G. FRANCE.

WHEREAS, William H. G. (Big Bill) France selected Talladega County in the State of Alabama as the site to build the World's Fastest Speedway in the late 1960's; and

WHEREAS, the first major stock car race was held at the new Alabama International Motor Speedway on September 14, 1969; and

WHEREAS, the races at Talladega have brought national recognition to the city, county, area, and State of Alabama through newspaper, radio, television, and magazine coverage; and

WHEREAS, fans from all 50 states and several foreign countries attend races at what is now Talladega Superspeedway; and

WHEREAS, Talladega Superspeedway's two major events, in May and July, are the two largest sporting events in the State of Alabama; and

WHEREAS, annual attendance at Talladega Superspeedway's two race weekends is more than 350,000; and

WHEREAS, the statewide economic impact of the two major race weekends at Talladega Superspeedway have been estimated at \$150 million dollars annually; and

WHEREAS, Talladega Superspeedway now has all its racing events televised nationwide; and

WHEREAS, Harley-Davidson's southeastern test facility and the International Motorsports Hall of Fame & Museum are both located in Talladega as a direct result of the speedway's having been built there; and

WHEREAS, officials of Talladega Superspeedway have always been active participants in civic affairs and industrial recruiting for the Talladega area; and

WHEREAS, Talladega Superspeedway is celebrating its 25th Anniversary in 1994, and it is both appropriate and desirable that this noteworthy event be acknowledged, and that Mr. France also be recognized for his instrumental role in the location of the Superspeedway in Talladega and the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSE THEREOF CONCURRING, That we hereby recognize with highest commendation, the 25th Anniversary of the Talladega Superspeedway, and Mr. William H. G. (Big Bill) France, and we do further direct that copies of this resolution be provided for presentation to Mr. France, and for appropriate display at Talladega Superspeedway.

Approved April 26, 1994

Time: 3:48 P.M.

Act No. 94-648

H. 430 – Rep. Harper

AN ACT

To make a supplemental appropriation for the sum of thirty thousand dollars (\$30,000) to the Alabama Liquefied Petroleum Gas Board from the Alabama Liquefied Petroleum Gas Board Fund for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all appropriations heretofore or hereafter made, there is hereby appropriated to the Alabama Liquefied

Petroleum Gas Board from the Alabama Liquefied Petroleum Gas Board Fund the sum of thirty thousand dollars (\$30,000) for the fiscal year ending September 30, 1994.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby specifically repealed.

Section 4. This Act shall become effective immediately upon its passage and approval of the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 4:00 P.M.

Act No. 94-649

H. 273 – Rep. Fuller

AN ACT

To amend Section 13A-5-40 of the Code of Alabama 1975, relating to crimes punishable as capital offenses so as to further amplify and specify as capital offenses the crimes of murder committed by or through the use of a deadly weapon fired or otherwise used from outside a dwelling while the victim is in a dwelling, murder committed by or through the use of a deadly weapon while the victim is in a vehicle, and murder committed by or through the use of a deadly weapon fired or otherwise used within or from a vehicle; and to include a savings provision relating to proceedings pending and rights and liabilities existing, acquired, or incurred prior to and as of the effective date of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 13A-5-40 of the Code of Alabama 1975, is hereby amended to read as follows:

“§13A-5-40.

“(a) The following are capital offenses:

“(1) Murder by the defendant during a kidnapping in the first degree or an attempt thereof committed by the defendant.

“(2) Murder by the defendant during a robbery in the first degree or an attempt thereof committed by the defendant.

“(3) Murder by the defendant during a rape in the first or second degree or an attempt thereof committed by the defendant; or

murder by the defendant during sodomy in the first or second degree or an attempt thereof committed by the defendant.

“(4) Murder by the defendant during a burglary in the first or second degree or an attempt thereof committed by the defendant.

“(5) Murder of any police officer, sheriff, deputy, state trooper, federal law enforcement officer, or any other state or federal peace officer of any kind, or prison or jail guard, while such officer or guard is on duty, regardless of whether the defendant knew or should have known the victim was an officer or guard on duty, or because of some official or job-related act or performance of such officer or guard.

“(6) Murder committed while the defendant is under sentence of life imprisonment.

“(7) Murder done for a pecuniary or other valuable consideration or pursuant to a contract or for hire.

“(8) Murder by the defendant during sexual abuse in the first or second degree or an attempt thereof committed by the defendant.

“(9) Murder by the defendant during arson in the first or second degree committed by the defendant; or murder by the defendant by means of explosives or explosion.

“(10) Murder wherein two or more persons are murdered by the defendant by one act or pursuant to one scheme or course of conduct.

“(11) Murder by the defendant when the victim is a state or federal public official or former public official and the murder stems from or is caused by or is related to his official position, act, or capacity.

“(12) Murder by the defendant during the act of unlawfully assuming control of any aircraft by use of threats or force with intent to obtain any valuable consideration for the release of said aircraft or any passenger or crewmen thereon or to direct the route or movement of said aircraft, or otherwise exert control over said aircraft.

“(13) Murder by a defendant who has been convicted of any other murder in the 20 years preceding the crime; provided that the murder which constitutes the capital crime shall be murder as defined in subsection (b) of this section; and provided further that the prior murder conviction referred to shall include murder in any degree as defined at the time and place of the prior conviction.

“(14) Murder when the victim is subpoenaed, or has been subpoenaed, to testify, or the victim had testified, in any preliminary

hearing, grand jury proceeding, criminal trial or criminal proceeding of whatever nature, or civil trial or civil proceeding of whatever nature, in any municipal, state, or federal court, when the murder stems from, is caused by, or is related to the capacity or role of the victim as a witness.

“(15) Murder when the victim is less than fourteen years of age.

“(16) Murder committed by or through the use of a deadly weapon fired or otherwise used from outside a dwelling while the victim is in a dwelling.

“(17) Murder committed by or through the use of a deadly weapon while the victim is in a vehicle.

“(18) Murder committed by or through the use of a deadly weapon fired or otherwise used within or from a vehicle.

“(b) Except as specifically provided to the contrary in the last part of subdivision (a)(13) of this section, the terms ‘murder’ and ‘murder by the defendant’ as used in this section to define capital offenses mean murder as defined in Section 13A-6-2(a)(1), but not as defined in Section 13A-6-2(a)(2) and (3). Subject to the provisions of Section 13A-5-41, murder as defined in Section 13A-6-2(a)(2) and (3), as well as murder as defined in Section 13A-6-2(a)(1), may be a lesser included offense of the capital offenses defined in subsection (a) of this section.

“(c) A defendant who does not personally commit the act of killing which constitutes the murder is not guilty of a capital offense defined in subsection (a) of this section unless that defendant is legally accountable for the murder because of complicity in the murder itself under the provisions of Section 13A-2-23, in addition to being guilty of the other elements of the capital offense as defined in subsection (a) of this section.

“(d) To the extent that a crime other than murder is an element of a capital offense defined in subsection (a) of this section, a defendant’s guilt of that other crime may also be established under Section 13A-2-23. When the defendant’s guilt of that other crime is established under Section 13A-2-23, that crime shall be deemed to have been ‘committed by the defendant’ within the meaning of that phrase as it is used in subsection (a) of this section.”

Section 2. All proceedings pending and all rights and liabilities existing, acquired or incurred prior to and as of the effective date of this act are hereby saved and may be consummated according to the law in force when they were commenced. This act shall not be construed to affect any prosecution pending or begun before the effective date of this act.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 4:01 P.M.

Act No. 94-650 H. 583 – Reps. McDaniel, Richardson, Smith (R), Sanderson, Sanderford, Burke, Hammett, Haney, Hooper, Laird, Carothers, Beasley, Mathis, Newton (C), Clay, Johnson, Thomas, Penry, Gullatt, Box, Turnham, Venable, Layson, Harvey, Ford, Anderson, Lindsey, Knight (A), Hill, Collins

AN ACT

To regulate commercial telephone solicitation, to require the annual registration, licensing, and bonding of commercial telephone sellers and salespersons, to specify exemptions, to set license fees, to prescribe civil and criminal penalties for violations, to authorize administration and enforcement by the Attorney General, to authorize waiver of civil penalties or other claims or costs if the violator has previously made full restitution or reimbursement or paid actual damages to injured purchasers, to authorize settlement of claims and actions, to authorize deposit of civil penalties, settlement amounts, attorney's fees, and costs into the State General Fund and appropriations therefrom for deposit into a special revenue account together with other receipts in the Office of the Attorney General, to provide for a revolving fund for implementation and enforcement of this act, and for administration, investigation, and future civil and criminal prosecution.

Be It Enacted by the Legislature of Alabama:

Section 1. This act may be cited as the "Alabama Telemarketing Act."

Section 2. The provisions of this act shall be construed liberally to promote the general welfare of the public and the integrity of the telemarketing industry.

Section 3. As used in this act, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) **COMMERCIAL TELEPHONE SOLICITATION.**

a. An unsolicited telephone call to a person initiated by a commercial telephone seller or salesperson, or an automated dialing

machine used in accordance with this act for the purpose of inducing the person to purchase or invest in consumer goods or services.

b. Other communication with a person where:

1. A gift, award, or prize is offered to a purchaser who has not previously purchased from the person initiating the communication.

2. A telephone call response is invited.

3. The salesperson intends to complete a sale or enter into an agreement to purchase during the course of the telephone call.

c. Other communication with a person which represents a price, quality, or availability of consumer goods or services and which invites a response by telephone or which is followed by a call to the purchaser by a salesperson. For purposes of this section, "other communication" means a written or oral notification or advertisement transmitted through any means. Also, for purposes of this section, "invites a response by telephone" does not mean the mere listing or including of a telephone number in a notification or advertisement.

(2) **COMMERCIAL TELEPHONE SELLER.** Any person who engages in commercial telephone solicitation on his or her own behalf or through salespersons, except that a commercial telephone seller does not include any of the persons or entities exempted from this act by Section 4. A commercial telephone seller does not include a salesperson as defined in subdivision (10). A commercial telephone seller includes, but is not limited to, owners, operators, officers, directors, partners, or other individuals engaged in the management activities of a business entity pursuant to this act.

(3) **CONSUMER GOODS OR SERVICES.** Any real property or any tangible or intangible personal property which is normally used for personal, family, or household purposes including, without limitation, any property intended to be attached to or installed in any real property, without regard to whether it is so attached or installed, as well as timeshare estates and licenses, and any services related to the property.

(4) **DIVISION.** The Consumer Division of the Office of the Attorney General.

(5) **ENFORCING AUTHORITY.** The division or the office of the district attorney if a violation of this act occurs in or affects the judicial circuit under the jurisdiction of the office of the district attorney.

(6) **GIFT, AWARD, OR PRIZE.** A gratuity which the purchaser believes to be of value.

(7) **INDIVIDUAL.** A single human being but does not mean a firm, association of individuals, corporation, partnership, joint venture, sole proprietorship, or any other entity.

(8) **PERSON.** Any individual, group of individuals, firm, association, corporation, partnership, joint venture, sole proprietorship, or any other business entity.

(9) **PURCHASER.** A person who is solicited to become or does become obligated to a commercial telephone seller.

(10) **SALESPERSON.** Any individual employed, appointed, or authorized by a commercial telephone seller, regardless of whether the commercial telephone seller refers to the individual as an agent, representative, or independent contractor, who attempts to solicit or solicits a sale on behalf of the commercial telephone seller. A salesperson, however, does not include individuals exempted from this act by Section 4 or employees or agents of persons exempted from this act by Section 4, or companies and individuals under contract with persons exempted from this act by Section 4 when liability is assumed by the exempt entity.

(11) **SOLICIT.** To initiate contact with a purchaser for the purpose of attempting to sell consumer goods or services, where the purchaser has expressed no previous interest in purchasing, investing in, or obtaining information regarding the property, goods, or services attempted to be sold.

(12) **TELEMARKETER.** A commercial telephone seller or salesperson.

(13) **TELEMARKETING.** Commercial telephone solicitation by a commercial telephone seller or salesperson.

Section 4. The provisions of this act do not apply to:

(1) A person engaging in commercial telephone solicitation where the solicitation is an isolated transaction and not done in the course of a pattern of repeated transactions of like nature.

(2) A person making calls for religious, charitable, political, educational, or other noncommercial purposes or a person soliciting for a nonprofit corporation if that corporation is properly registered with the Secretary of State and is included within the exemption of the Alabama Revenue Code or Section 501(c)(3) of the Internal Revenue Code.

(3) A person soliciting:

a. Without the intent to complete or obtain provisional acceptance of a sale during the telephone solicitation.

b. Who does not make the major sales presentation during the telephone solicitation.

c. Without the intent to complete, and who does not complete, the sales presentation during the telephone solicitation, but who completes the sales presentation at a later face-to-face meeting between the seller and the prospective purchaser. However, if a seller, directly following a telephone solicitation, causes an individual whose primary purpose it is to go to the prospective purchaser to collect the payment or deliver any item purchased, this exemption does not apply.

(4) Any licensed securities, commodities, or investment broker, dealer, or investment adviser, when soliciting within the scope of his or her license. As used in this section, "licensed securities, commodities, or investment broker, dealer, or investment adviser" means a person subject to license or registration by the Securities and Exchange Commission, by the National Association of Securities Dealers or other self-regulatory organization as defined by the Securities Exchange Act of 1934 (15 U.S.C. Section 781), or by an official or agency of this state or of any state, commonwealth or territory of the United States.

(5) Any licensed associated person of a securities, commodities, or investment broker, dealer, or investment adviser, when soliciting within the scope of his or her license. As used in this section, "licensed associated person of a securities, commodities, or investment broker, dealer, or investment adviser" means any associated person registered or licensed by the National Association of Securities Dealers or other self-regulatory organization as defined by the Securities Exchange Act of 1934 (15 U.S.C. Section 781), or by an official or agency of this state or of any state, commonwealth or territory of the United States.

(6) A person primarily soliciting the sale of a newspaper, periodical of general circulation, or magazine.

(7) A book, video, or record club or contractual plan or arrangement:

a. Under which the seller provides the consumer with a form which the consumer may use to instruct the seller not to ship the offered merchandise.

b. Which is regulated by the Federal Trade Commission trade regulation concerning "use of negative option plans by sellers in commerce."

c. Which provides for the sale of books, records, or videos which are not covered under paragraph a. or paragraph b., including continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who

has consented in advance to receive the merchandise on a periodic basis.

(8) Any supervised financial institution or parent, subsidiary, or affiliate thereof. As used in this section, "supervised financial institution" means any commercial bank, trust company, savings and loan association, mutual savings bank, credit union, industrial loan company, consumer finance lender, commercial finance lender, or insurer, provided that the institution is subject to supervision by an official or agency of this state, of any state, or of the United States.

(9) Any licensed insurance broker, agent, or solicitor when soliciting within the scope of his or her license. As used in this section, "licensed insurance broker, agent, or solicitor" means any insurance broker, agent, or solicitor licensed in accordance with the Alabama Insurance Code (Title 27, Code of Alabama 1975).

(10) A person soliciting the sale of services provided by a cable television system operating under authority of a franchise or permit.

(11) A business-to-business sale where:

a. The commercial telephone seller has been operating continuously for at least three years under the same business name and has at least 50 percent of its dollar volume consisting of repeat sales to existing businesses.

b. The purchaser business intends to resell or offer for purposes of advertisement or as a promotional item the property or goods purchased.

c. The purchaser business intends to use the property or goods purchased in a recycling, reuse, remanufacturing, or manufacturing process.

(12) A person who solicits sales or advertising by periodically publishing and delivering a catalog, periodical, or magazine of the seller's merchandise or ad purchasers, merchandise to prospective purchasers, if the catalog, periodical, or magazine:

a. Contains a written description or illustration of each item or service offered for sale.

b. Includes the physical, permanent business address or home address of the seller.

c. Includes at least 20 pages of written material and illustration and is distributed in more than one state.

d. Has an annual cumulative circulation by mailing of not less than 150,000.

(13) A person who solicits contracts for the maintenance or repair of goods previously purchased from the person making the solicitation or on whose behalf the solicitation is made.

(14) A commercial telephone seller licensed pursuant to Section 5.

(15) A telephone company or utility which is regulated by the Alabama Public Service Commission, or any employee, officer, director, or authorized sales representative of such telephone company when soliciting products or services which would be subject to Public Service Commission regulation on behalf of such telephone company, or a Federal Communications Commission licensed cellular telephone company or affiliates or other bona fide radio telecommunication services provider. Provided, however, that such authorized sales representatives shall be subject to the same rules and regulations as the exempted company through the Public Service Commission.

(16) A person who is licensed pursuant to Chapter 13, Title 34, Code of Alabama 1975, who is soliciting within the scope of the license.

(17) A person licensed pursuant to Section 5 when soliciting pursuant to that license.

(18) An issuer or a subsidiary of an issuer that has a class of securities which is subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. Section 781) and which is either registered or exempt from registration under paragraph (A), paragraph (B), paragraph (C), paragraph (E), paragraph (F), paragraph (G), or paragraph (H) of subsection (g)(2) of that section.

(19) A business soliciting exclusively the sale of telephone answering services provided that the telephone answering services will be supplied by the solicitor.

(20) A person soliciting a transaction regulated by the Commodity Futures Trading Commission if the person is registered or temporarily licensed for this activity with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. Section 1 et seq.) and the registration or license has not expired, or been suspended or revoked.

(21) A person soliciting the sale of food or produce if the solicitation neither intends to result in, or actually results in, a sale which costs the purchaser in excess of five hundred dollars (\$500).

(22) A person soliciting business from prospective consumers who have an existing business relationship with or who have previously purchased from the business enterprise for which the solicitor is calling, if the solicitor is operating under the same exact business name.

(23) A person who has been operating, for at least one year, a retail business establishment under the same name as that used in connection with telemarketing, and both of the following occur on a continuing basis:

a. Either products are displayed and offered for sale or services are offered for sale and provided at the business establishment.

b. A majority of the seller's business involves the buyer obtaining the products or services at the seller's location.

(24) Any person who is duly licensed under Section 34-27-66, Code of Alabama 1975.

(25) Any telephone marketing service company which provides telemarketing sales services under contract to sellers and has been operating continuously for at least five years under the same business name and 75 percent of its contracts are performed on behalf of persons exempted from this act by this section.

(26) A person or business soliciting the sale of an annual publication comprised of a biographical compilation of notable and distinguished individuals.

Section 5. (a) Prior to doing business in this state, a commercial telephone seller shall obtain a license from the division. Doing business in this state includes both telephone solicitation from a location in Alabama and solicitation from other states or nations of purchasers located in Alabama.

(b) An applicant for a license as a commercial telephone seller shall submit to the division, in the form prescribed, a written application for the license. The application shall set forth the following information:

(1) The true name, date of birth, driver's license number, social security number, and home address of the applicant, including each name under which he or she intends to do business.

(2) Each business or occupation engaged in by the applicant during the three years immediately preceding the date of the application, and the location thereof.

(3) The previous experience of the applicant as a commercial telephone seller or salesperson.

(4) Whether the applicant has previously been arrested for, convicted of, or is under indictment or information for, a felony and, if so, the nature of the felony. Conviction includes a finding of guilt where adjudication has been withheld.

(5) Whether the applicant has previously been convicted of, or is under indictment or information for, racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or

misappropriation of property. Conviction includes a finding of guilt where adjudication has been withheld.

(6) Whether there has ever been a judicial or administrative finding that the applicant has previously been convicted of acting as a salesperson without a license, or whether a license has previously been refused, revoked, or suspended in any jurisdiction.

(7) Whether the applicant has worked for, or been affiliated with, a company that has had entered against it an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice.

(8) Whether the applicant has had entered against him or her an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice; and whether or not there is any litigation pending against the applicant.

(9) The name of any parent or affiliated entity that:

a. Will engage in a business transaction with the purchaser relating to any sale solicited by the applicant.

b. Accepts responsibility or is otherwise held out by the applicant as being responsible for any statement or act of the applicant relating to any sale solicited by the applicant.

(10) The complete street address of each location, designating the principal location, from which the applicant will be doing business. If any location is a mail drop, this shall be disclosed.

(11) A list of all telephone numbers currently used or to be used by the applicant, with the address where each telephone having these numbers will be located.

(12) The true name, current home address, date of birth, social security number, and all other names by which each person below is now known, or was previously known:

a. Principal officer, director, trustee, shareholder, owner, or partner of the applicant, and every other person responsible for the management of the business of the applicant.

b. Office manager or other person principally responsible for a location from which the applicant will do business.

c. Salesperson(s) or other person(s) to be employed by the applicant.

(c) The application shall be accompanied by a copy of any: Script, outline, or presentation the applicant will require or suggest a salesperson to use when soliciting, or, if no document is used, a statement to that effect; sales information or literature to be provided by the applicant to a salesperson; and sales information or literature to be provided by the applicant to a purchaser in connection with any solicitation.

(d) When an application sets forth information regarding an applicant as described in paragraphs (4) to (8), inclusive, of subdivision (b), the applicant shall:

(1) Identify the court or administrative agency rendering the conviction, judgment, or order against the person or pending litigation.

(2) Provide the docket number of the matter; the date of the conviction, judgment, or order; and the name of the governmental agency, if any, that brought the action resulting in the conviction, judgment, or order. The applicant shall also include all pending civil or criminal litigation.

(e) If the applicant is other than a natural person, or if any parent or affiliated entity is identified pursuant to subdivision (b)(9), the applicant shall, for itself and any entity, identify its place of organization and:

(1) In the case of a partnership, provide a copy of any written partnership agreement.

(2) In the case of a corporation, provide a copy of its articles of incorporation and bylaws.

(f) An application filed pursuant to this act shall be verified and accompanied by:

(1) A bond, letter of credit, or certificate of deposit satisfying the requirements of Section 10.

(2) An annual license fee in the amount of \$500.00.

(g) The division shall issue a license number to all commercial telephone sellers.

(h) It is a violation of this act for a commercial telephone seller to:

(1) Fail to maintain a valid license.

(2) Advertise that one is licensed as a commercial seller or represent that the licensing constitutes approval or endorsement by any government or governmental office or agency.

(3) Provide inaccurate or incomplete information to the division when making a license application.

(4) Misrepresent that a person is registered or that a person has a valid license number.

Section 6. (a) With respect to any person identified pursuant to Section 5, an applicant for a license as a commercial telephone seller shall state in his or her application the identity of any affiliated commercial seller or salesperson who:

(1) Has been convicted of, or is under indictment or information for, racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. Conviction includes a finding of guilt where adjudication has been withheld.

(2) Is involved in pending litigation or has had entered against him or her an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice.

(3) Is, or ever has been, subject to any litigation, injunction, temporary restraining order, or final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document or any restrictive court order relating to a business activity as the result of any action brought by a governmental agency, including any action affecting any license to do business or practice an occupation or trade.

(4) Has at any time during the previous seven years filed for bankruptcy, been adjudged bankrupt, or been reorganized because of insolvency.

(5) Has been a principal, director, officer, or trustee of, or a general or limited partner in, or had responsibilities as a manager in, any corporation, partnership, joint venture, or other entity that filed for bankruptcy, was adjudged bankrupt, or was reorganized because of insolvency within one year after the person held that position. The disclosures required in subdivision (4) shall be

applicable insofar as they relate to the applicant commercial telephone seller, as well as any affiliated commercial seller or salesperson.

(b)(1) For any person described in subsection (a), the applicant shall:

a. Identify the court or administrative agency rendering the conviction, judgment, or order against the person or pending litigation.

b. Provide the docket number of the matter, the date of the conviction, judgment, or order, and the name of the governmental agency, if any, that brought the action resulting in the conviction, judgment, or order.

(2) For any person described in subdivision (5), the applicant shall provide the name and address of the person filing for bankruptcy, adjudged bankrupt, or reorganized because of insolvency, the date of the action, the court which exercised jurisdiction, and the docket number of the matter.

(c) Each commercial telephone seller shall disclose to the division the name, address, and account number of each institution where banking or similar monetary transactions are done by the commercial telephone seller.

Section 7. (a) An applicant for a license as a salesperson shall submit to the division, in the form prescribed, a written application for a license. The application shall set forth the following information:

(1) The true name, date of birth, driver's license number, social security number, and home address of the applicant.

(2) **Each business or occupation** engaged in by the applicant during the three years immediately preceding the date of the application, and the location thereof.

(3) The previous experience of the applicant as a commercial telephone seller or salesperson.

(4) Whether the applicant has previously been arrested for, convicted of, or is under indictment or information for, a felony and, if so, the nature of the felony. Conviction includes a finding of guilt where adjudication has been withheld.

(5) Whether the applicant has previously been convicted of, or is under indictment or information for, racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. Conviction includes a finding of guilt where adjudication has been withheld.

(6) Whether there has ever been a judicial or administrative finding that the applicant has previously been convicted of acting as a salesperson without a license, or whether a license has previously been refused, revoked, or suspended in any jurisdiction.

(7) Whether the applicant has worked for, or been affiliated with, a company that is involved in pending litigation or has had entered against it an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice.

(8) Whether the applicant is involved in pending litigation or has had entered against him or her an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice.

(b) An application filed pursuant to this section shall be verified and be accompanied by:

(1) A verified statement of the commercial telephone seller with whom the salesperson will be associated, expressing the intention of the commercial telephone seller to associate the salesperson with him or her and to be responsible for the activities of the salesperson.

(2) An annual license fee for a salesperson in the amount of fifty dollars (\$50).

(c) The division shall issue a license number to all salespersons. The division shall adopt rules which allow certain salesperson applicants to operate on an interim basis until such time as a license is granted or denied.

(d) It is a violation of this act for a salesperson to:

(1) Fail to maintain a valid license.

(2) Advertise that one is licensed as a salesperson or to represent that the licensing constitutes approval or endorsement by any government or governmental office or agency.

(3) Provide inaccurate or incomplete information to the division when making a license application.

(4) Misrepresent that a person is registered or that a person has a valid license number.

Section 8. (a) The division shall issue to each approved applicant a license in the form and size as is prescribed by the division and, in the case of a commercial telephone seller, shall issue a license for each location at which the commercial telephone seller proposes to do business. Each license issued under this act shall show the name and address of the licensee.

(b) Each licensee shall prominently display his or her license at the location where he or she does business. Each licensee shall make the license available for inspection by any governmental agency upon request.

(c) Failure to display a license is sufficient grounds for the division to issue an immediate cease and desist order. The order shall remain in effect until the commercial telephone seller can show the authorities that he or she is licensed. The division shall order the business to cease operations and request the Public Service Commission to order the providers to disconnect any and all telecommunications services being provided to or used by the business. Defendants have the burden of petitioning the circuit court for relief from the cease and desist order. Failure of a salesperson to display a license may result in the salesperson being summarily ordered by the division to leave the office until such time as he or she can produce a license for the division.

Section 9. (a) Each person licensed under this act shall renew his or her license annually by paying the fee for licensing and submitting to the division the application required by this act.

(b) Except as otherwise provided in subsection (c), if any material change in the information submitted for licensing occurs before the date for renewal, a licensee shall submit that information to the division in the manner prescribed by the division, along with a fee in the amount of ten dollars (\$10).

(c) If any change is made to any script, outline, presentation, sales information, or literature used by a licensee in connection with any solicitation, the new or revised material shall be submitted by the licensee to the division within 10 days of the change.

(d) If any licensee has a change of address or status required to be disclosed pursuant to Sections 5 to 7, inclusive, notification shall be made to the division in writing within 10 days of the change.

Section 10. (a) An application filed pursuant to Section 5 shall be accompanied by:

(1) A bond executed by a corporate surety approved by the division and licensed to do business in this state.

(2) An irrevocable letter of credit issued for the benefit of the applicant by a bank whose deposits are insured by an agency of the Federal Government.

(3) A certificate of deposit in a financial institution insured by an agency of the Federal Government, which may be withdrawn only on the order of the division, except that the interest may accrue to the applicant.

(b) The amount of the bond, letter of credit, or certificate of deposit shall be a minimum of fifty thousand dollars (\$50,000), and the bond, letter of credit, or certificate of deposit shall be conditioned upon compliance by the applicant with this act. The division may establish a bond of a greater amount to ensure the general welfare of the public and the interests of the telemarketing industry.

(c) The bond shall be posted with the division.

(d) The division or any governmental agency, on behalf of any injured purchaser or any purchaser himself or herself who is injured by the bankruptcy of the applicant or his or her breach of any agreement entered into in his or her capacity as a licensee, may bring and maintain an action to recover against the bond, letter of credit, or certificate of deposit.

Section 11. (a) The division may deny licensure to any applicant who:

(1) Has been convicted of racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, or any other crime involving moral turpitude. Conviction includes a finding of guilt where adjudication has been withheld.

(2) Has had entered against him or her or any business for which he or she has worked or been affiliated, an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue or misleading representation in an attempt to sell or dispose of real or personal property or the use of any unfair, unlawful, or deceptive trade practice.

(3) Is subject to or has worked or been affiliated with any company which is, or ever has been, subject to any injunction, temporary restraining order, or final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, or any restrictive court order relating to a business activity as the result of any action brought by a governmental agency, including any action affecting any license to do business or practice an occupation or trade.

(4) Has at any time during the previous seven years filed for bankruptcy, been adjudged bankrupt, or been reorganized because of insolvency.

(5) Has been a principal, director, officer, or trustee of, or a general or limited partner in, or had responsibilities as a manager in, any corporation, partnership, joint venture, or other entity that filed the bankruptcy, was adjudged bankrupt, or was reorganized because of insolvency within one year after the person held that position.

(6) Has been previously convicted of or found to have been acting as a salesperson or commercial telephone seller without a license or whose licensure has previously been refused, revoked, or suspended in any jurisdiction.

(7) Falsifies or willfully omits any material information asked for in the application:

(8) Otherwise violates this act.

(b) An applicant may appeal the denial or nonrenewal of a license by requesting in writing, within 30 days of receipt of the notice of denial or nonrenewal, a hearing. The hearing shall be conducted in accordance with Chapter 22, Title 41, Code of Alabama 1975, and presided over by a hearing officer designated by the division. When any hearing officer conducts a hearing with respect to the issuance of a license by the division, the hearing officer shall submit his or her recommended order to the division, which shall issue a final order of the division in accordance with Chapter 22, Title 41, Code of Alabama 1975.

Section 12. (a) Within the first 30 seconds of a telephone call, a commercial telephone seller or salesperson shall identify himself or herself by stating his or her true name, the company on whose behalf the solicitation is being made, and the consumer goods or services being sold.

(b) If a sale or an agreement to purchase is completed, the commercial telephone seller shall inform the purchaser of his or her cancellation rights as provided in this act, state the license number issued by the division for both the commercial telephone seller and the salesperson, and give the street address of the commercial telephone seller.

(c) All oral disclosures required by this section shall be made in a clear and intelligible manner.

Section 13. If a commercial telephone seller expressly or impliedly represents to any prospective purchaser, directly or through a salesperson, that the purchaser is or may be eligible to

receive any gift, premium, bonus, or prize, however denominated, the commercial telephone seller shall submit to the division a statement setting forth, for each item mentioned:

- (1) A description of the item.
- (2) The value or worth of the item and the basis for the valuation.
- (3) All terms and conditions a purchaser is required to satisfy in order to receive the item. The statement shall be accompanied by a copy of the written statement of terms and conditions provided to purchasers pursuant to this act.
- (4) If they are ascertainable, the odds, for a given purchaser, of receiving the item.
- (5) If a purchaser is to receive fewer than all the items described by the seller:
 - a. The manner in which the commercial telephone seller decides which item a given purchaser is to receive.
 - b. If they are ascertainable, the odds, for a given purchaser, of receiving each item described.
 - c. The name and address of each person who has, during the preceding 12 months or any portion thereof in which the commercial telephone seller has done business, received each gift, premium, bonus, or prize. The provisions of this section shall not apply if the item is unconditionally offered to a purchaser as part of a sale and the buyer has seven days to return the goods or cancel the services and the right to receive a full refund in 30 days and the right to keep the item in that case without cost.

Section 14. (a) A purchase of consumer goods or services ordered as a result of a commercial telephone solicitation as defined in this act, if not followed by a signed written contract, is not final. If a contract is not made in compliance with this section, it is not valid and enforceable against the purchaser. The contract made pursuant to a commercial telephone solicitation shall:

- (1) Be reduced to writing and be signed by the purchaser.
- (2) Match the description of the goods or services as that principally used in the telephone solicitation.
- (3) Contain the name, address, telephone number, and registration number of the commercial telephone seller and the salesperson, the total price of the contract, and a detailed description of the goods or services being sold.
- (4) Contain the value or worth of any item, good, or service specified in Section 13, and the basis for the valuation.

(5) Contain all terms and conditions a purchaser is required to satisfy in order to receive any item, good, or service specified in Section 13.

(6) Contain, if they are ascertainable, the odds, for a given purchaser, of receiving any item specified in Section 13.

(7) Contain, if a purchaser is to receive fewer than all the items specified in Section 13 described by the seller:

a. The manner in which the commercial telephone seller decides which item a given purchaser is to receive.

b. If they are ascertainable, the odds, for a given purchaser, of receiving each item described.

(8) Contain, in at least 12-point type, immediately preceding the signature, the following statement: "You are not obligated to pay any money unless you sign this contract and return it to the commercial telephone seller."

(9) Not exclude from its terms any oral or written representations made by the commercial telephone seller or salesperson to the purchaser in connection with the transaction.

(b) A commercial telephone seller who engages a salesperson to make, or cause to be made, a telephone sales call shall not make or submit any charge to the purchaser's credit card account until after the commercial telephone seller receives from the purchaser a copy of the contract which complies with this section. The commercial telephone seller shall then send the purchaser a written confirmation of the sale.

(c) The written contract shall contain an explanation of the purchaser's rights under this section and a statement indicating when notice of cancellation is required to be sent. The purchaser may give notice of cancellation to the commercial telephone seller in writing within three business days after receipt of the confirmation. If the commercial telephone seller has not provided an address for receipt of the notice, cancellation is effective by mailing the notice to the division.

(d) Notice of cancellation by the commercial telephone seller shall be given by certified mail, return receipt requested, and shall be effective when mailed. Notice of cancellation given by the purchaser need not take a particular form and is sufficient if it indicates, by any form of written expression, the name and address of the purchaser and the purchaser's stated intention not to be bound by the sale.

(e) If a commercial telephone seller violates this act in making a sale, or fails to deliver an item within 30 calendar days, the contract is voidable by giving notice to the commercial telephone seller,

and the purchaser is entitled to a return from the seller, within 14 days, of all consideration paid. Notice of cancellation given by the purchaser need not take a particular form and is sufficient given orally or in writing. Upon receipt by the purchaser of the consideration paid to the commercial telephone seller, the purchaser shall return to the commercial telephone seller the items received by the purchaser. Any cost of returning the items received by the purchaser shall be borne by the commercial telephone seller, by providing or guaranteeing payment for return shipping. If the payment is not provided or guaranteed, the purchaser may keep, without further obligation, the items received.

(f) A person who purchases goods or services pursuant to a solicitation governed by this act shall be given a refund, credit, or replacement, at his or her option, if:

(1) The goods or services are defective, are not as represented, or if any item described pursuant to this act is not received as promised.

(2) He or she returns the goods or makes a written request for the refund, credit, or replacement within seven days after he or she receives the goods or services. A return or request is timely if shipment is made or the request is postmarked, properly addressed and postage prepaid, within the time provided by this section.

(g) If a purchaser of goods returns only a portion of the goods, the refund, credit, or replacement required by this section may be prorated accordingly.

(h) The refund, credit, or replacement required by this section shall be guaranteed by the commercial telephone seller who made the sale, regardless of whether payment for the goods or services is made to that person.

(i) Any contract, agreement to purchase, or written confirmation executed by a seller which purports to waive the purchaser's rights under this act is against public policy and shall be unenforceable, provided that an agreement between a purchaser and commercial telephone seller to extend the delivery time of an item to more than 30 days shall be enforceable if the commercial telephone seller has a reasonable basis to expect that he or she will be unable to ship the item within 30 days and if the agreement is included in the terms of the written confirmation.

(j) Where a contract or agreement to purchase confers on a purchaser greater rights to cancellation, refund, or return than those enumerated in this act, the contract shall be enforceable and not in violation of this act, provided that all rights under a contract or

agreement to purchase shall be specifically stated in a written confirmation sent pursuant to this section.

(k) The provisions of this section shall not reduce, restrict, or eliminate any existing rights or remedies available to purchasers.

(l) Any sale in which the consumer is given a full refund or credit for the return of undamaged and unused goods, or a cancellation of services notice is given to the seller, within seven days after receipt of the goods or services by the consumer, is exempt from the requirements of subsections (a) to (e), inclusive, and the seller shall process the refund or credit to the consumer's credit card account within 30 days after receipt of the returned merchandise by the consumer or within 30 days after receipt of the cancellation notice from the consumer, process the refund or credit to the consumer's credit card account for any services not yet performed or a pro rata refund or credit to the consumer's credit card for any services not yet performed for the consumer.

Section 15. (a) It shall be unlawful for any commercial telephone seller or salesperson to require that payment be by credit card authorization or otherwise to announce a preference for that method of payment.

(b) It shall be unlawful for any commercial telephone seller to employ, or be affiliated with, any unlicensed salesperson.

(c) It shall be unlawful for any salesperson to be employed by, or affiliated with, an unlicensed commercial telephone seller.

(d) It shall be unlawful for any commercial telephone seller or salesperson to be unlicensed.

(e) It shall be unlawful for any salesperson or commercial telephone seller to otherwise violate this act.

Section 16. (a) If, by his or her own inquiries or as a result of complaints, the enforcing authority has reason to believe that a person has engaged in, or is engaging in a practice that violates this act, he or she may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence. Within 10 days after the service of a subpoena or at any time before the return date specified therein, whichever is longer, the party served may file in the circuit court in the county in which he or she resides or in which he or she transacts business and serve upon the enforcing authority a petition for an order modifying or setting aside the subpoena. The petitioner may raise any objection or privilege which would be available under this act or upon service of the subpoena in a civil action. The subpoena shall inform the party served of his or her rights under this subsection.

(b) If matter that the enforcing authority seeks to obtain by subpoena is located outside the state, the person subpoenaed may

make it available to the enforcing authority or his or her representative to examine the matter at the place where it is located. The enforcing authority may designate representatives, including officials of the state in which the matter is located, to inspect the matter on his or her behalf, and he or she may respond to similar requests from officials of other states.

(c) Upon failure of a person, without lawful excuse, to obey a subpoena and upon reasonable notice to all persons affected, the enforcing authority may apply to the circuit court for an order compelling compliance.

Section 17. The division may bring:

(1) An action to obtain a declaratory judgment that an act or practice violates this act.

(2) An action to enjoin any person who has violated or is violating this act.

(3) An action on behalf of one or more purchasers for the actual damages caused by an act or practice performed in violation of this act. This action may include, but is not limited to, an action to recover against a bond, letter of credit, or certificate of deposit as otherwise provided in this act. Upon motion of the enforcing authority in any action brought under this section, the court may make appropriate orders, including appointment of a master or receiver or sequestration of assets, to reimburse consumers found to have been damaged, to carry out a consumer transaction in accordance with the consumer's reasonable expectations, or to grant other appropriate relief. The court may assess the expenses of a master or receiver against a commercial telephone seller. Any injunctive order, whether temporary or permanent, issued by the court shall be effective throughout the state unless otherwise provided in the order.

Section 18. (a) Any person who engages in any act or practices that violate this act is liable for a civil penalty of up to ten thousand dollars (\$10,000) for each violation.

(b) The civil penalty may be recovered by any of the following:

(1) Civil action against the person engaging in the violative act or practice.

(2) Agreement and settlement of a civil action filed by stipulation of terms by the person engaging in the violative act or practice and the director of the division by authority of the Attorney General, and by payment of any agreed upon amount by the person against whom the claim was filed.

(3) The settlement of a claim against a person for violation of this act before civil action is filed by agreement upon terms and by

the payment of any settlement amount agreed upon by the person and the director of the division by authority of the Attorney General.

(c) Upon ceasing the violative act or practice and agreeing to desist therefrom, and upon the payment of the settlement or stipulated amount to the Office of the Attorney General by the person in violation, the director of the division may terminate the investigation or prosecution of any civil action or proposed action.

(d) The division or the court may waive any civil penalty or other claims, or costs if the person has previously made full restitution or reimbursement or has paid actual damages to the purchasers who have been injured by the act or practice in violation of this act.

(e) All amounts recovered and all monies paid under this act shall be deposited into the State General Fund and are appropriated as received hereby to the Attorney General's special revenue account for implementing and enforcing this act.

Notwithstanding the provisions of this subsection (e), one half of the licensing fee collected under Section 7(b)(2) of this act shall be remitted to the treasury of the county within the State of Alabama in which the business is licensed.

Section 19. (a) In any civil action or investigation resulting from a transaction involving a violation of this act, except as provided in subsection (c), the division shall receive reasonable attorney's fees and costs from the nonprevailing party. The amounts appropriated for those purposes in this act are in addition to all monies heretofore and hereafter appropriated in any special or general appropriation act to the Attorney General's special revenue account which is a revolving fund in which the Attorney General is authorized to make deposits and withdrawals from time to time so that the account operates on a revolving basis for expenditure for administration and future civil and criminal investigation and prosecution, and all balances of revenue, income, and receipts remaining at the end of the fiscal year shall carry over to the next fiscal year and shall not revert to the State General Fund or any other fund under Section 41-4-93 of the Code of Alabama 1975.

(b) Any award of attorney's fees or costs shall become a part of the judgment and subject to execution as the law allows.

(c) In any civil litigation initiated by the division resulting in a judgment or administrative order, the court may award to the prevailing party reasonable attorney's fees and costs if the court finds that there was a complete absence of a justiciable issue of either

law or fact raised by the losing party or if the court finds bad faith on the part of the losing party.

(d) The attorney for the prevailing party shall submit a sworn affidavit of his or her time spent on the case and his or her costs incurred.

Section 20. The division or other enforcing authority shall have criminal prosecuting authority concerning the violations of this act or of any rule or order hereunder. In addition to any other action, the division or other enforcing authority may bring an action against any person to enjoin, restrain, and prevent the doing of any act or practice herein prohibited or declared unlawful.

Section 21. (a) No salesperson shall solicit purchasers on behalf of a commercial telephone seller who is not currently licensed with the division pursuant to this act. Any person who violates this subsection commits a Class C felony punishable as provided in Section 13A-5-6 and Section 13A-5-11, Code of Alabama 1975.

(b) No commercial telephone seller shall employ or be affiliated with a salesman who is soliciting purchasers and who is not currently licensed with the division pursuant to this act. Any person who violates this subsection commits a Class C felony punishable as provided in Section 13A-5-6 and Section 13A-5-11, Code of Alabama 1975.

(c) No commercial telephone seller or salesperson shall solicit without a license. Any person who violates this subsection commits a Class C felony punishable as provided in Section 13A-5-6 and Section 13A-5-11, Code of Alabama 1975.

(d) Any commercial telephone seller or salesperson who falsifies information on an application commits a Class C felony punishable as provided in Section 13A-5-6 and Section 13A-5-11, Code of Alabama 1975.

(e) Except as provided in subsections (a), (b), (c), or (d), any person who otherwise violates any provision of this act or who directly or indirectly employs any device, scheme, or artifice to deceive in connection with the offer or sale by any commercial telephone seller commits a Class C felony punishable as provided in Section 13A-5-6 and Section 13A-5-11, Code of Alabama 1975.

(f) Any person who is convicted of a second or subsequent violation of this act commits a Class B felony punishable as provided in Section 13A-5-6 and Section 13A-5-11, Code of Alabama 1975. A conviction shall include a finding of guilt where adjudication has been withheld.

(g) Any person who violates this act shall also be guilty of a violation of Sections 8-19-1 to 8-19-15, inclusive, Code of Alabama 1975.

Section 22. In any civil proceeding alleging a violation of this act, the burden of proving an exemption specified in Section 4 or that the person or entity is not otherwise subject to this act is upon the person or entity claiming the exemption. In any criminal proceeding alleging a violation of this act, the burden of producing evidence to support a defense based upon an exemption specified in Section 4 or that the person or entity is not subject to this act is upon the person or entity claiming the defense.

Section 23. In addition to any other penalties or remedies provided under law, a person who is injured by a violation of this act may bring a civil action for recovery of actual damages and any damages that would be available at common law or by statute, including actual costs, court costs, and attorney's fees. No provision in this act shall be construed to limit any right or remedy provided under law. Any violation of this act shall also be considered a violation of the Deceptive Trade Practices Act, Section 8-19-1, et seq., Code of Alabama 1975.

Section 24. The division shall promulgate rules to implement and administer this act.

Section 25. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 26. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 4:05 P.M.

Act No. 94-651

S.J.R. 10 – Senator Horn

SENATE JOINT RESOLUTION

DECLARING AN EMERGENCY IN REGARD TO FUNDING FROM THE ALABAMA SPECIAL EDUCATIONAL TRUST FUND FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1995.

WHEREAS, the Legislature hereby determines pursuant to Act 88-981 that an emergency exists in regard to funding from the Alabama Special Educational Trust Fund:

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That the sum

of \$16,000,000 shall be withdrawn from the Proration Prevention Account and shall be transferred to the Alabama Special Educational Trust Fund on or after October 1, 1994, to be available for appropriation by the Legislature for the fiscal year ending September 30, 1995.

BE IT FURTHER RESOLVED, That this resolution shall become effective immediately upon its passage by the Legislature and approval by the Governor or upon its otherwise becoming a law.

Approved April 26, 1994

Time: 4:06 P.M.

Act No. 94-652 S. 280 – Senators Dial, Mitchem, deGraffenried, Owens, Dixon, Underwood, Floyd, Mitchell, Bailey, Bedsole, Parsons, Hill, Little, Waggoner, Barron, Hale, Denton, Lindsey, Sanders, Ellis, Windom, and Smith (J)

AN ACT

To establish the "Alabama Boating Safety Reform Act of 1994"; to amend Section 32-5A-191, Code of Alabama 1975, to prohibit the operation of a vessel and certain other marine devices while under the influence of alcohol or controlled substances, and to provide for certain fines and penalties, parallel to the fines, penalties, and punishment for operating a motor vehicle on the public highways under the influence; to provide for powers of arrest without warrant of certain persons at the scene of boating accidents; to amend Section 32-5A-192, Code of Alabama 1975, to provide for the crime of homicide by vessel, and to provide for certain fines and penalties; to regulate the use of personal watercraft on the waters of this state and to provide for certain penalties; to provide for and require a boater safety certification for certain persons; to provide a certificate of exemption from examination for certain persons; to provide for an examination except driving skills, for operators of certain boats and vessels, and provide certain fees to cover the cost of application, collection, and reporting; to provide certain exemptions; to provide for issuance and use of duplicate certification identifications, and the surrender of the duplicates, or exemption; to provide for certain reciprocal agreements; to provide authority to promulgate certain rules, and for certain penalties and fines for violations, including misdemeanor and felony punishment; to provide for the use and exceptions of certain personal flotation devices and penalties for violations; to amend Section 33-5-26 of the Code of Alabama 1975, to further regulate the towing of certain persons and to require certain observers or mirrors while towing certain persons, and to provide for penalties for violations; to prohibit reckless and careless operation of vessels, to require compliance with certain rules, and to provide for penalties for violations; to prohibit the obstruction of view of a vessel operator and to provide for penalties for violations; to require an emergency cut-off switch for certain vessels, and to provide other safety equipment for vessels; to provide for the establishment

of speed restrictions; to prohibit mooring to or damaging certain signs and markers; to prohibit violations of the federal rules or regulations relating to the horsepower of the engines of the vessels; to provide for the renewal, cancellation, suspension, and revocation of boater safety certifications and of vessel operating privileges, and for procedures to administer and implement penalties for violations; to provide for certain exceptions; to authorize the Commissioner of Conservation and Natural Resources to issue and enforce certain rules and regulations necessary to implement this act; to provide generally for criminal penalties, misdemeanors, and felonies for violations of this act; to provide for certain boating safety education in schools; and to repeal Section 33-5-24, Code of Alabama 1975, and other laws to the extent of a conflict with this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be designated as the “Alabama Boating Safety Reform Act of 1994.”

Section 2. Section 32-5A-191, Code of Alabama 1975, as last amended, is amended to read as follows:

“§32-5A-191.

“(a) A person shall not drive or be in actual physical control of any vehicle or vessel, or manipulate any water skis, aquaplane, or any other marine transportation device on the waters of this state, as the waters are defined in Section 33-5-3, Code of Alabama 1975, while:

“(1) There is 0.10 percent or more by weight of alcohol in the blood.

“(2) Under the influence of alcohol.

“(3) Under the influence of a controlled substance to a degree which renders the person incapable of safely driving.

“(4) Under the combined influence of alcohol and a controlled substance to a degree which renders the person incapable of safely driving.

“(5) Under the influence of any substance which impairs the mental or physical faculties of the person to a degree which renders the person incapable of safely driving.

(b) In the case of a vessel or other marine device described in subsection (a) of this section, only where the law enforcement officer of the Department of Conservation and Natural Resources has prior to stopping a vessel probable cause to believe that the operator of the vessel is driving under the influence of alcohol or under the influence of a controlled substance in violation of this section, the law enforcement officer is authorized to administer and may test the operator, at the scene, by using a field breathalyzer or other approved device, as a screening device, to determine if the operator may be operating a vessel or device in violation of subsection (a) of

this section. Refusal to submit to a field breathalyzer test or other approved testing device shall result in the same punishment as provided in Section 32-5A-192(c) for operators of motor vehicles on the state highways. No field breathalyzer test shall be administered where the operator is stopped for violations other than for Section 32-5A-191.

“(c) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a controlled substance shall not constitute a defense against any charge of violating this section.

“(d) Upon first conviction, a person violating this section shall be punished by imprisonment in the county or municipal jail for not more than one year, or by fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or by both fine and imprisonment. In addition, on a first conviction, the director of public safety, in the case of a motor vehicle or the Commissioner of Conservation and Natural Resources in the case of a vessel or other device described herein, shall suspend the driving or vessel operating privilege or driver’s license or boater safety certification of the person so convicted for a period of 90 days. First time offenders convicted of driving or operating a vessel while under the influence of alcohol shall also be required to complete a DUI court referral program approved by the state administrative office of courts. Neither reckless driving, reckless or careless operation of a vessel, nor any other traffic or boating or water safety infraction is a lesser included offense under a charge of driving a motor vehicle or operating a vessel while under the influence of alcohol or controlled substances.

“(e) On a second conviction within a five-year period, the person convicted of violating this section shall be punished by a fine of not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) and by imprisonment, which may include hard labor in the county or municipal jail for not more than one year. The sentence shall include a mandatory sentence which is not subject to suspension or probation of imprisonment in the county or municipal jail for not less than 48 consecutive hours or community service for not less than 20 days. In addition the director of public safety, in the case of a motor vehicle or the Commissioner of Conservation and Natural Resources in the case of a vessel or other marine device described, shall revoke the driving or vessel operating privileges or driver’s license or boater safety certification of the person so convicted for a period of one year.

“(f) On a third or subsequent conviction within a five-year period, the person convicted of violating this section shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five

thousand dollars (\$5,000) and by imprisonment, which may include hard labor, in the county or municipal jail for not less than 60 days nor more than one year, to include a minimum of 60 days which shall be served in the county or municipal jail and which cannot be probated or suspended. In addition, the director of public safety, in the case of a motor vehicle or the Commissioner of Conservation and Natural Resources in the case of a vessel or other marine device described, shall revoke the driving or vessel operating privilege or driver's license or boater safety certification of the person so convicted for a period of three years.

“(g) Except as otherwise provided in this act, all fines collected for violation of this section resulting from arrests by state officers shall be paid into the state general fund; and except as otherwise provided, all fines so collected for violations resulting from arrests by county or municipal officers shall be disbursed as otherwise provided for by law. All fines collected for violation of this section as to vessels or other marine devices on the waters of this state shall be paid into the State Water Safety Fund.

“(h) A person who has been arrested for violating this section shall not be released from jail under bond or otherwise, until there is less than the same percent by weight of alcohol in the person's blood as specified in subsection (a)(1).

“(i) ‘Vessel,’ for the purposes of this section, shall mean any vessel as defined in Section 33-5-3, Code of Alabama 1975, operated on the waters of this state, as defined in Section 33-5-3, Code of Alabama 1975.

“(j) Notwithstanding anything to the contrary, all penalties and convictions provided by this section, including, but not limited to, all suspensions and revocations, shall separately, rather than cumulatively or jointly, apply to violations of this section relating to (a) the operation of motor vehicles, and (b) the operation of vessels and other marine devices. No provision of this subsection (j) shall be construed to assess points for DUI convictions under motor vehicle convictions for driving under the influence.”

Section 3. Section 32-5A-192, Code of Alabama 1975, as last amended, is amended to read as follows:

“§32-5A-192.

“(a) Whoever shall unlawfully and unintentionally cause the death of another person while engaged in the violation of any state law or municipal ordinance applying to the operation or use of a vehicle, or vessel, as defined in Section 33-5-3, Code of Alabama 1975, or to the regulation of traffic or boating, shall be guilty of homicide when the violation is the proximate cause of the death.

“(b) Any person convicted of homicide by vehicle or vessel shall be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000), or shall be imprisoned for a term not less than one year nor more than five years, or may be so fined and so imprisoned. All fines collected for violation of this section relating to vessels shall be paid into the State Water Safety Fund.”

Section 4. (a) As used in this section, “personal watercraft” means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel.

(b) A person may not operate a personal watercraft on the waters of this state, as waters are defined in Section 33-5-3, Code of Alabama 1975, unless each person operating, riding on, or being towed by the vessel is wearing a personal flotation device approved by the United States Coast Guard, in accordance with rules and regulations by the Commissioner of the Department of Conservation and Natural Resources.

(c) A person operating a personal watercraft on the waters of this state that does not have self circling capability, shall have a lanyard type engine cutoff switch and must attach the lanyard to the person, clothing, or personal flotation device as is appropriate.

(d) A personal watercraft shall at all times be operated on the waters of this state in a reasonable and prudent manner. Maneuvers which endanger life, limb, or property, or create a public nuisance, including, but not limited to the following, weaving through congested vessel traffic at high speed, following closely behind within the wake of a vessel towing a person or persons on water skis, surf board, or other water sport device, jumping the wake of another vessel travelling in the same direction in close proximity to the vessel, cutting between a boat and the person or persons being towed by that boat, or crossing at right angles in close proximity to the stern of another vessel or when visibility around the other vessel is obstructed, or steering a vessel toward any object or person in the water and turning sharply at close range so as to spray the object or person, shall all constitute the reckless operation of a vessel, as provided in subdivision (1) of Section 24 of this act. Any person violating this subsection shall be punished upon conviction as provided in Section 24.

(e) No person under the age of 12 shall operate a personal watercraft on the waters of this state, and persons who are at least 12 and over may only operate personal watercraft on the waters of this state to the extent otherwise permitted by law.

(f) It is unlawful for the owner of any personal watercraft or any person having charge over or control of a personal watercraft

to authorize or knowingly permit these to be operated on the waters of this state by a person in violation of this section.

(g) No person shall tow any person by personal watercraft unless the personal watercraft is equipped with a rearview mirror meeting the specifications established by regulation of the Commissioner of the Department of Conservation and Natural Resources.

(h) Any person who violates this section, except as otherwise provided in subsection (d), shall be guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. All persons so convicted shall be fined not less than one hundred dollars (\$100). All fines collected for violation of this section shall be paid into the State Water Safety Fund.

(i) This section does not apply to a performer engaged in a professional exhibition or a person participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with Section 33-5-27, Code of Alabama 1975, and any rules and regulations issued by the Commissioner of Conservation and Natural Resources.

Section 5. (a) Every person, except those specifically exempted by statutory enactment, within five years from the effective date of this act, shall procure a boater safety certification before operating a motorized vessel upon the waters of this state, as defined in Section 33-5-3, Code of Alabama 1975. This section shall not apply to any sailboat, rowboat, or canoe. Notwithstanding anything to the contrary herein, an Alabama resident 16 years of age and older, who has not been previously issued a boater safety certification, may for a period of thirty (30) days following the date of sale of the vessel to the person, operate the vessel upon the waters provided the following conditions are met: (1) the vessel has been registered in the name of the person; and (2) a notarized bill of sale for the vessel, indicating that the person is the purchaser and owner of the vessel, is in the possession of the person at all times of operation. In addition, any person while taking test drives of vessels for sale when accompanied by a licensed vessel dealer, shall be exempt during the drive from the certification. Every new resident of the State of Alabama, before operating a motorized vessel, shall procure the certification within 30 days after establishing residence in this state.

(b) Each boater safety certification issued to a person, if issued at the same time the person is issued a valid Alabama motor vehicle driver or learner license, or valid Alabama nondriver identification card, or if issued prior to the expiration date of the driver or learner license or card, shall expire on the expiration date of the

person's valid Alabama motor vehicle driver or learner license or card. In all other cases, the expiration date of each boater safety certification shall be four years from the date of issuance.

(c) Every boater safety certification issued under this act may be renewed at the end of the certification period without examination upon application. For the purpose of renewal of a boater safety certification, the Department of Public Safety shall mail renewal notices to each certification holder 30 days after the expiration date if the certification has not been renewed. A grace period of 60 days after the expiration date of certification shall exist for the purpose of certification renewal and the certification shall be valid for this time period. The applicant shall apply for renewal of certification anytime during a period beginning 30 days before the expiration date of the then current certification until one year after the expiration date of certification. Failure to make application for renewal within the specified time shall result in the applicant being required to take, and successfully pass, a written or oral examination as administered by the Department of Public Safety. If any person's birthday is February 29, the first day of March following shall be regarded as the birthday for the purposes of this section.

(d) Nonresidents at least 12 years of age who have in their immediate possession a valid boater safety certification or vessel operator's certification issued in their home state or country shall be exempt from the requirements of this section, but under no circumstances shall a person be granted any privileges of operation beyond those granted to an Alabama resident certification holder of the same age.

(e) Nonresidents at least 12 years of age whose home state or country does not require boater safety certification or the licensing of vessel operators shall also be exempt from the requirements of this section for a cumulative operation period of not more than 45 days in any calendar year. Otherwise, any nonresidents shall be examined and certified under the same terms and conditions as Alabama residents. Nonresidents may be examined and obtain certification in any county and the certification shall be entitled "Nonresident Alabama Boater Safety Certification," but under no circumstances shall a person be granted any privileges of operation beyond those granted to an Alabama resident certification holder of the same age.

(f) A person operating a vessel pursuant to a valid and legal commercial activity, shall, during the period of time of that activity only, be exempt from the requirement of boater safety certification. Otherwise, the person shall be subject to the requirement.

(g) A person, while using a rental vessel, shall be exempt from the certification requirements of this section if the following conditions are met:

(1) The person rents a vessel from a boat rental business duly licensed by the municipality or the county if the following three conditions are met:

a. The rental contract specifies that the lessee has been instructed in the proper and safe operation of the vessel by the lessor or the authorized agent of the lessor, and

b. The lessor in fact has complied with the terms of rental contract and all parties sign the contract, and

c. The lessee signs a statement that the lessee is not currently under suspension or revocation of any boater safety certification or vessel operation privilege in this state.

Section 6. (a) Every person who applies for a boater safety certification under this act, except as otherwise provided in this subsection, shall pay a five dollar (\$5) application fee and be given either a certificate of exemption from examination if applicable, or will be given an examination, either written or oral, before applying to the judge of probate or license commissioner for the issuance of the certification. No person shall be eligible for, or issued, an exemption from examination in the event the person is convicted, on or after the effective date of this act, of violating any crime relating to the operation of a vessel, whether contained in this act or otherwise, for which a person's boater safety certification or vessel operating privileges shall be suspended or revoked pursuant to this act. The person shall first apply to either the officer, state trooper, or duly authorized agent of the Director of Public Safety, designated by the Director of Public Safety to conduct examinations for the county of the applicant's residence, and a minor shall furnish a certified copy of a birth certificate or a certified statement from the county superintendent of education in which the applicant resides or the superintendent of the school which the person attends, to prove age and upon proof shall immediately be examined. Any operator of a boat who is 40 years of age or older, whether a resident or a non-resident, as of the effective date of this act, shall be granted a certificate of exemption only from the certification examination requirements of this act, but shall be subject to all the other requirements of this act. Any operator of a boat or vessel that is a holder of a current valid United States Coast Guard license issued under Section 46, Code of Federal Regulations, Part 10, is exempt from the safety certification requirements of Section 5, only while performing the duties of the operator, including, but not limited to, the following: carrying passengers for hire on United States navigable waters; on all towboats greater than 26 feet engaged in towing; on any steam propelled vessel; on any sea-going vessel greater than 200 gross tons; on any vessel engaged in off-shore oil or mineral production; and on all

boats or vessels over 200 gross tons. Also exempt from the safety certification requirements of Section 5, only upon proof of valid documentation and only while performing commercial fishing duties, is an operator of a commercial fishing vessel or boat. A person holding a valid United States Coast Guard motorboat operator's license, and a person submitting a valid certificate of successful completion of any of the following boating courses: (a) United States Power Squadron, (b) United States Coast Guard Auxiliary, or (c) any State of Alabama Marine Police Division approved boating safety course, shall be exempt from the examination requirements, and shall be issued a certificate of exemption from examination, for a boater safety certification, but shall be subject to all other requirements of this act.

(b) A person may be examined in a county other than the county designated by the Director of Public Safety by agreement in writing with the Director of Public Safety.

(c) The Commissioner of Conservation and Natural Resources shall establish from time to time as necessary the kind of examination or test to be given, which shall be of similar length and content as the motor vehicle driver license examination, and the method and manner of giving the test and ascertaining and reporting the results. Reports of all examinations shall be on forms provided by the Director of Public Safety and shall show whether or not the applicant passed the examination. No provision of this subsection shall be construed to require a test of driving skills. The rules and regulations promulgated by the Commissioner pursuant to this subsection shall be subject to the Administrative Procedures Act.

(d) If the applicant passes the examination, a certificate to that effect shall be given, on a form provided by the Director of Public Safety by the officer, state trooper, or duly authorized agent of the Director of Public Safety conducting the test. The person shall present the certificate, or the certificate of exemption from examination if applicable, to the judge of probate or license commissioner of the county, together with the application for a boater safety certification, and the judge of probate or license commissioner shall attach the certificate to the application and forward it to the Director of Public Safety along with the application at the time the application is sent.

(e) If any person fails to pass the examination given, no certificate shall be given and no application for a boater safety certification shall be accepted by a judge of probate or license commissioner unless it is accompanied by a certificate showing that the applicant has passed the examination.

(f) The application fees shall be retained by the Department of Public Safety and are appropriated on a continuous basis and shall be utilized and expended for boating safety or law enforcement purposes and shall not revert to the General Fund at the end of the fiscal year.

Section 7. (a) Unless otherwise provided in this act, upon the installation of a system for the issuance of boater safety certifications with color photographs of holders, all certifications and renewals issued in this state shall be issued in the following manner:

(1) The person shall apply under oath to the judge of probate or license commissioner of the county of residence for the certification or renewal upon a form which shall be provided by the Director of Public Safety.

(2) Subject to the other provisions of this section, the judge of probate or license commissioner shall take a color photograph of the holder, with equipment to be furnished by the Department of Public Safety, to be attached to each application.

(b) It is the legislative intent to implement and maintain a boater safety certification program at the lowest possible cost to the citizens of Alabama. Consistent with this goal, it is the legislative intent to not require payment for boater safety certifications when certifications are obtained at the time of issuance of a valid Alabama motor vehicle driver or learner license or valid Alabama nondriver identification card, but rather utilize one card for those purposes.

(c) The following requirements shall apply to persons obtaining boater safety certifications other than at the time of issuance of their Alabama motor vehicle driver or learner license or identification card:

For the purpose of defraying the cost of issuing boater safety certifications with color photographs of the holder thereon, the judge of probate or license commissioner shall collect for each certification the sum of twenty dollars (\$20) for a four-year certification, and the judge of probate or license commissioner shall give the applicant a boater safety certification, but validly licensed Alabama motor vehicle driver or learner license holders or holders of valid Alabama nondriver identification cards, obtaining certifications prior to the expiration date of an Alabama driver or learner license or identification card, shall be issued a temporary certification which shall expire on the expiration date of the driver or learner license or card, the cost of which shall be an issuance fee of one dollar and fifty cents (\$1.50), and the fee amount shall be retained by the probate judge and distributed as otherwise provided for issuance fees in Section 8.

(d) Notwithstanding anything to the contrary, in the event the applicant is, at the time of issuance, also issued a valid Alabama

motor vehicle driver or learner license or valid Alabama nondriver identification card, then the applicant shall not be required to pay any additional amount for the boater safety certification. Any person may have a duplicate card issued, at the same cost as the original, for the convenience of the individual. The duplicate shall be marked "duplicate".

Section 8. At the close of business on Monday of each week, when any application has been received, the judge of probate receiving the application shall prepare a report upon a form which shall be provided by the Director of Public Safety. One copy of the report, together with all applications received, shall be forwarded to the Director of Public Safety and one copy shall be retained by the judge of probate. On the tenth day of every month, the judge of probate shall prepare a report showing the number of applications received and the amount of fees received during the previous calendar month; provided, that the report shall be prepared on the twentieth day in October, November, and December. One copy of the report shall be forwarded to the Director of Public Safety, one to the Commissioner of Conservation and Natural Resources, one to the State Comptroller, and one to the State Treasurer, and the judge of probate shall retain a copy. Except as otherwise provided in this act, the judge of probate shall also at that time deliver to the state treasurer the amount of all the fees collected, less one dollar and fifty cents (\$1.50) for each boater safety certification issued, which sum shall be retained by him or her. Except in counties where the judge of probate is compensated by fees, each one dollar and fifty cents (\$1.50) retained by the judge of probate shall be paid into the Public Highway and Traffic Fund of the county. In counties where the judge of probate is compensated by fees, two-fifths of each one dollar and fifty cents (\$1.50) retained by the judge of probate shall be for his or her own use, and no other or further charge shall be made for services rendered in taking or receiving applications or issuing permits. The remaining three-fifths shall be paid into the Public Highway and Traffic Fund of the county. This section, providing for the allocation of the one dollar and fifty cents (\$1.50) retained by the judge of probate in counties where the judge of probate is compensated by fees, shall not repeal any local statutes or general statutes of local application providing for a different allocation of the one dollar and fifty cents (\$1.50). The funds remitted to the state treasurer under this section, shall be deposited into the Public Safety Law Enforcement Fund within the State Treasury. All money deposited in the state treasury to the credit of the Public Safety Law Enforcement Fund shall be expended for law enforcement purposes and shall be appropriated on a continuous basis and shall not revert to the General Fund of the State Treasury.

Section 9. Each boater safety certification issued by the Department of Public Safety, except for temporary certifications issued pursuant to Section 7, or except special circumstances as determined by the Director of the Department of Public Safety, shall bear thereon a distinguishing number assigned to the holder and a color photograph of the holder, the name, birth date, address, and a description of the holder, who, for the purpose of identification and as a condition precedent to the validity of the certification, immediately upon receipt thereof, shall endorse his or her usual or regular signature in ink upon the certification in the space provided, unless a facsimile of the holder's signature appears.

The photo boater safety certification, as provided in Section 7 of this act, shall have a photo core that meets the minimum width and length dimensions specified in ANSI standards X4.13-1971 and ANSI standard CR80, plus or minus 1/4 inch. In addition to all current and existing fees, the Department of Public Safety may charge an additional fee to recover the cost of obtaining boater safety certifications and terminal support equipment from the supplier. The fee may not exceed ten cents (\$.10) over the actual cost of obtaining the necessary material from the supplier. Revenues collected under this section shall be used by the department for the sole purpose of this program and any excess shall revert to the state general fund at the end of each fiscal year.

Notwithstanding anything to the contrary, in the event a person is issued a valid Alabama motor vehicle driver or learner license, or valid Alabama nondriver identification card at the same time as issuance of the boater safety certification, the certification shall consist of a notification on the driver or learner license or the identification card, at no additional cost for notification, that the person is also the holder of a boater safety certification. No additional fees shall be collected or retained for the issuance of a boater safety certification under these circumstances. Any person may have a duplicate card issued, at the same cost as the original cost, for the convenience of the individual. The duplicate shall be marked "duplicate".

Section 10. A boater safety certification shall not be issued to the following persons:

- (1) Any person less than 12 years of age.
- (2) Any person whose vessel operating right or privilege is suspended.
- (3) Any person whose vessel operating right or privilege is revoked.
- (4) Any person who is an habitual drunkard or addict to the use of narcotic drugs.

(5) Any person adjudged insane or an idiot, imbecile, or feeble-minded, until restored to competency by judicial judgment, or released from a hospital for the insane or feeble-minded, upon certification by the superintendent or medical director that the person is competent, and upon certification by the Director of Public Safety or examining officer that the person is competent to operate a vessel with safety to persons and property.

(6) Any person afflicted with or suffering from a physical or mental disability which, in the opinion of the Director of Public Safety or examining officer will prevent the person from exercising reasonable and ordinary control over a vessel.

Section 11. (a) Any person with physical disabilities, a record of an impairment or regarded as having an impairment, shall be subject to the same laws, rules, and regulations set forth by the Department of Public Safety and the Department of Conservation and Natural Resources relating to the certification of an individual to operate a vessel.

(b) Notwithstanding any law, rule, or regulation, the Department of Public Safety shall not refuse to issue or renew any certification for the operation of a vessel on the grounds of physical appearance, speculations, or generalizations that the individual's physical impairment would impede that person's ability to operate a vessel in a safe manner without probable cause to believe the person's ability to operate a vessel in a safe manner is in fact impaired.

(c) If the department refuses to issue a certification or arbitrarily questions the person's abilities, based on physical appearance or speculated inability to operate a vessel in a safe manner, the person shall have a right to an impartial hearing before the Director of Public Safety or his or her designee. At the hearing, the person shall have the right to be represented by counsel and to present witnesses including, but not limited to, a physician of choice. The person may appeal any decision to the circuit court of competent jurisdiction for a trial de novo.

(d) This section shall be interpreted to be consistent with and to further the purposes and policies of Section 504 of the Rehabilitation Act of 1973, as amended, 34 CFR Part 104 and P.L. 101-336, The Americans with Disabilities Act of 1990, together with implementing regulations, and amendments to the laws and regulations.

Section 12. Every holder of a boater safety certification shall have the certification in personal possession at all times when operating a motorized vessel and shall display the certificate upon demand of a judge of any court, a peace officer, state marine police officer, or a state trooper. No person charged with violating

this section shall be convicted, if the person produces in court or in the office of the arresting officer a boater safety certification issued prior to the arrest and valid at the time of arrest.

Section 13. The Director of Public Safety and Commissioner of Conservation and Natural Resources are empowered to enter into reciprocal agreements with other states constituting an exchange of rights or privileges in the use of boater safety certifications, vessel operator's certifications, or vessel operating privileges, within this state by residents of other states. Nothing in this act shall in any way affect the revocation of certifications of another state. The reciprocal agreement can be annulled on notice issued to either party by the other party within 30 days. No agreement shall authorize a person who has been a resident of this state for the past 90 days to operate a motorized vessel in this state without a valid boater safety certification issued by the Director of Public Safety of this state.

Section 14. (a) The Director of Public Safety, upon issuing a boater safety certification, shall have authority whenever the holder is impaired from a physical disability to impose restrictions suitable to the holder's operating ability with respect to the type of or special mechanical control devices required on a vessel which the holder may operate or other restrictions applicable to the holder as the Director of Public Safety or Commissioner of Conservation and Natural Resources may determine to be appropriate to assure the safe operation of a vessel by the holder.

(b) The Director of Public Safety may either issue a special restricted certification or may set forth restrictions upon the usual certification form in the issuance of certification under subsection (a) of this section.

(c) The Conservation Commissioner may, upon receiving satisfactory evidence of any violation of the restrictions of certification **subject to subsection (a), suspend the certification but the person shall be entitled to a hearing as upon a suspension under Section 29 of this act.**

(d) It shall be a Class C misdemeanor for any person to operate a vessel in any manner in violation of the restrictions imposed in a restricted certification. Any fines collected for the violation of this section shall be deposited into the State Water Safety Fund.

Section 15. The Commissioner of Conservation and Natural Resources may establish and promulgate reasonable rules and regulations, not in conflict with the laws of this state, concerning operation of vessels and concerning the enforcement of this act. All fines collected shall be deposited into the State Water Safety Fund. Specifically, but not by way of limitation, the commissioner may establish, by regulation, in addition to all other penalties, a point

system by which boater safety certifications may be suspended or revoked, as well as hearing procedures related to the suspension or revocation of certifications. Unless otherwise provided by law, the penalty for the violation of any rules and regulations promulgated under this act shall be a Class C misdemeanor punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. A person so convicted shall be fined not less than fifty dollars (\$50).

Section 16. The Director of Public Safety shall file every application for a boater safety certification received by him and shall maintain suitable indices. The Commissioner of Conservation and Natural Resources shall also file all accident reports and abstracts of court records of convictions received under the laws of this state and, in that connection, maintain convenient records or make suitable notations in order that an individual record of each certification holder showing the convictions of and the accidents in which the holder has been involved. The record shall be readily ascertainable and available for the consideration of the commissioner and director upon any application for renewal of certification and at other suitable times.

Section 17. (a) In the event any boater safety certification issued under this act is lost or destroyed, the person may upon payment of a fee of five dollars (\$5) and upon furnishing proof to the Director of Public Safety that the certificate has been lost or destroyed, secure a duplicate. The second and subsequent duplicates applied for will require the payment of a fee of fifteen dollars (\$15) and, upon furnishing proof to the Director of Public Safety that the previously held certification or duplicate has been lost or destroyed, secure a duplicate. Application for the duplicate shall be made to the Director of Public Safety on forms provided by the official. The fee shall be collected by the director, paid into the state treasury and credited to the Department of Public Safety. The fee shall be retained by the Department of Public Safety and is appropriated on a continuous basis and shall be utilized and expended for boating safety or law enforcement purposes and shall not revert to the General Fund at the end of the fiscal year.

(b) Any person making a false affidavit to the Director of Public Safety for the purpose of obtaining a duplicate certification shall be guilty of a Class C misdemeanor and upon conviction shall be punished as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than fifty dollars (\$50). All fines collected for the violation of this subsection shall be deposited into the State Water Safety Fund.

(c) Notwithstanding anything to the contrary, however, the person shall not be required to pay any additional fees for the reissuance

of a lost or destroyed certification as denoted on any reissued lost or destroyed motor vehicle driver license, when the license and a boater safety certification were previously issued at the same time.

Section 18. Any person whose boater safety certification has been cancelled, suspended, or revoked under any provision of Alabama law, by the Commissioner of Conservation and Natural Resources, or by any court of competent jurisdiction shall, upon application for reinstatement of the certification, pay to the Director of Public Safety a fee of fifty dollars (\$50) for each cancellation, suspension, or revocation action. An additional fifty dollars (\$50) is imposed if the cancelled, suspended, or revoked certification is not voluntarily surrendered within 30 days of a cancellation, suspension, or revocation notice. Upon receipt of the reinstatement fee, clearance for recertification will be provided. The second and any subsequent clearance for recertification for this action will be provided for a fee of five dollars (\$5). Upon reinstatement the holder is required to obtain a duplicate certification with a new photograph and current personal data. Fees collected by the director under this section shall be retained by the Department of Public Safety and shall not be returned to the applicant for reinstatement of certification, notwithstanding what action the Commissioner of Conservation and Natural Resources may take on the person's application for reinstatement of certification.

Section 19. (a) Any person of whom a boater safety certification is required, who operates a motorized vessel on the waters of this state as the terms are defined in Section 33-5-3, Code of Alabama 1975, without first complying with this act, or the rules and regulations promulgated, shall be guilty of a Class B misdemeanor, and, upon conviction is punishable as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(b) Any person who willfully makes a false statement under oath, in an application or renewal for a boater safety certification, shall be guilty of perjury and upon conviction is punishable as provided by law.

(c) Any person who willfully conceals or withholds a material fact called for in an application for or renewal of a boater safety certification with intent to obtain certification by fraud shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than fifty dollars (\$50).

(d) Any person who violates any provision of this act for which no fixed punishment is prescribed or who violates any rule or regulation

promulgated as authorized by this act shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than fifty dollars (\$50).

(e) All fines, penalties, or forfeitures imposed and collected under this act shall be forwarded immediately by the officer of the court who collects them to the Commissioner of Conservation and Natural Resources, together with a report giving a list and description of each case in which a fine, penalty, or forfeiture was collected. The reports shall be on forms provided by the commissioner and shall contain information as the commissioner may require. All moneys received by the commissioner shall be covered by him immediately upon receipt into the state treasury to the credit of the State Water Safety Fund. Any officer of the court who fails to make the reports provided for or who fails to remit any fines, penalties, or forfeitures, as provided by law, and collected under this act in the manner provided shall be guilty of a Class C misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100).

Section 20. Any person whose boater safety certification or vessel operator's certification issued in this or another state or whose vessel operating privilege as a nonresident has been cancelled, suspended, or revoked, as provided in this act, and who operates any motorized vessel upon the waters of this state while certification or privilege is cancelled, suspended, or revoked shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100). Also, at the discretion of the Commissioner of Conservation and Natural Resources, the person's certification or privilege may be revoked for an additional revocation period of six months.

Section 21. (a) Every applicant for an original boater safety certification shall be required to pay an application fee of five dollars (\$5) to the Department of Public Safety upon applying to the officer, state trooper, or duly authorized agent of the Director of Public Safety, or to one of them where there is more than one designated by the Director of Public Safety, to conduct examinations in the county of the applicant's residence. The five dollar (\$5) application fee shall be required prior to the issuance of each certification of examination or exemption from examination.

(b) The Department of Public Safety shall issue proper receipts for the application fee. The application fees are appropriated on a continuous basis to the Department of Public Safety, and shall be retained by the department and utilized for boating safety

or law enforcement purposes and shall not revert to the State General Fund at the end of each fiscal year.

Section 22. (a) All persons under eight years of age on board any vessel or boat of any kind on the waters of this state shall at all times wear a United States Coast Guard approved wearable personal flotation device of proper size for the person, except that no personal flotation device shall be required for any person who is inside of an enclosed cabin or enclosed sleeping space regardless of whether the vessel is in operation.

(b) Any personal flotation devices required in this section shall be strapped, snapped, or zippered securely and maintained in good condition at all times they are required to be worn.

(c) Any person who fails to require or permits any person under their legal custody or control to fail to comply with, the requirements of this section, shall be guilty of a Class B misdemeanor, and upon conviction is punishable as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).

Section 23. Section 33-5-26, Code of Alabama 1975, is amended to read as follows:

“§33-5-26.

“(a) No person shall operate a vessel on any waters of this state for towing a person or persons, on water skis, or an aquaplane or any other recreational device, unless there is in the vessel a person, in addition to the operator, who is at least 12 years of age and is observing and is capable of communicating to the operator of the vessel the progress and safety of the person or persons being towed, or the vessel is equipped with a wide angle mirror with a viewing surface of at least 78 square inches and a field of vision of at least 170 degrees.

“(b) No person shall operate a vessel on any waters of this state towing a person or persons on water skis, aquaplane or any other recreational device, nor shall any person engage in water skiing, aquaplaning, or similar activity, at any time between the hours from one hour after sunset to one hour before sunrise.

“(c) Subsections (a) and (b) of this section do not apply to a performer engaged in a professional exhibition or a person or persons participating in an official regatta, motorboat race, marine parade, tournament, or exhibition.

“(d) No person except in jump buoys and like objects used normally in competitive and recreational skiing shall operate or manipulate any vessel, tow rope, or other device by which the

direction or location of water skis, aquaplane, or any other recreational device may be affected or controlled in a manner to cause the water skis, aquaplane, or other recreational device, or any person thereon, to collide with or strike against any object or person.

“(e) Subsection (a) shall not apply to personal watercraft as defined in Section 4 of this act.

“(f) Any person who violates this section shall be guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).”

Section 24. (a) It is unlawful to operate a vessel in a reckless manner upon the waters of this state. A person is guilty of the reckless operation of a vessel who operates any vessel, or manipulates any water skis, aquaplane, or other marine transportation device, upon the waters of this state in willful or wanton disregard for the safety of persons or property at a speed, or in a manner to endanger, or likely to endanger, life, limb, or damage the property of, or injure any person. Any person who violates this subsection is guilty of a Class A misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred fifty dollars (\$150).

(b) Any person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, so as not to endanger the life, limb, or property of any person. The endangerment of life, limb, or property through the negligence, carelessness, or inattention of any person operating a vessel on the waters of this state shall constitute careless operation. Vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates this subsection is guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(c) Each person operating a vessel upon the waters of this state shall comply with all of the rules and regulations of the Marine Police Division of the Department of Conservation and Natural Resources.

(1) A person whose violation of the rules and regulations results in a boating accident, but whose violation did not constitute reckless or careless operation of a vessel, is guilty of a Class C misdemeanor punishable upon conviction as provided in Sections

13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(2) A person whose violation of the rules and regulations does not result in a boating accident and does not constitute reckless or careless operation of a vessel is guilty of a Class C misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than fifty dollars (\$50).

(d) In addition to all other penalties contained in this section, any person convicted of violating this section shall be subject to the revocation or suspension of their boating safety certification or vessel operator's certification or vessel operating privileges upon the waters of this state, as provided by law and rules and regulations of the Department of Conservation and Natural Resources.

Section 25. (a) It shall be unlawful for the operator of a vessel, when the vessel is operated at or above plane speed, to position or allow the positioning of, persons or equipment, including but not limited to, seats, coolers, tackle, ski, and tubing devices, in a manner that would obstruct the operator's view to impair, or would otherwise impair, the safe operation of the vessel while operating on the waters of this state. Sailboats and auxiliary sailboats are exempt from this section.

(b) Any person violating this section shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).

Section 26. (a) It shall be unlawful on the waters of this state for any person to operate, or give permission to another person to operate, any vessel less than 24 feet in length having an open construction and having more than 50 horsepower, unless the vessel is equipped with an emergency engine or motor shut-off switch.

(b) The shut-off switch referred to in subsection (a), shall be a lanyard-type engine cutoff switch and shall be attached to the person, clothing, or personal flotation device of the operator, as is appropriate, and shall be constructed and installed in a manner so that when in use, any removal of the operator from the normal operating station will result in the immediate shut-off of the engine or motor.

(c) For the purpose of this section, "open construction" means any vessel described herein not having a permanently affixed top or cabin.

(d) Any person violating this section shall be guilty of a Class B misdemeanor, and upon conviction shall be punishable as provided by Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).

Section 27. No person shall under any circumstances operate a vessel on the waters of this state in excess of a speed zone established by regulation of the Commissioner of Conservation and Natural Resources. The commissioner may promulgate rules and regulations establishing speed zones, in areas on the waters of this state as deemed hazardous by the commissioner.

Section 28. (a) Except in case of emergency, no person shall moor or fasten a vessel to a lawfully placed aid-to-navigation marker, sign, or buoy, regulatory marker, sign, or buoy, or area boundary marker, sign, or buoy, placed or executed by any governmental agency.

(b) No person shall willfully damage, alter, or move a lawfully placed aid-to-navigation marker, sign, or buoy, regulatory marker, sign, or buoy, or area boundary marker, sign, or buoy.

(c) Any person violating this section shall be guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).

Section 29. (a) The Commissioner of Conservation and Natural Resources may cancel any boater safety certification upon determining that the holder of the certification was not entitled to the issuance or that the holder failed to give the correct or required information in the application for certification. Upon cancellation the holder shall surrender the certification cancelled and any duplicate. A holder who refuses to surrender the certification and any duplicate shall be guilty of a Class C misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975.

(b) The privilege of operating a vessel on the waters of this state, as defined in Section 33-5-3, Code of Alabama 1975, shall be subject to suspension or revocation by the commissioner in like manner and for like cause as a boater safety certification may be suspended or revoked.

(c) The commissioner may, upon receiving a record of the conviction in this state of a nonresident operator of a vessel of any offense, forward a certified copy of the record to the boater safety administrator in the state where the person was convicted is a resident.

(d) When a nonresident's operating privilege or Alabama boater safety certification is suspended or revoked, the commissioner may forward a certified copy of the record of the action to the boater safety administrator in the state where the person resides.

(e) The commissioner may suspend or revoke the boater safety certification of any person in this state or the privilege of any person to operate a vessel on the waters of this state upon receiving notice of the conviction of the person in another state of any offense therein which, if committed in this state, would be grounds for the suspension or revocation of the boater safety certification or vessel operating privilege of a vessel operator.

(f) The commissioner may give effect to conduct of a resident in another state as is provided by the laws of this state had the conduct occurred in this state.

(g) Whenever any person is convicted of any offense for which this act makes mandatory the revocation of the certification of the person, the court in which the conviction is had shall require the surrender of the certification documents and duplicates of any boater safety certification then held by the person convicted and the court shall thereupon forward the proof of certification surrendered together with a record of the conviction to the commissioner.

(h) Every court with jurisdiction over offenses committed under this act, or any other law of this state, or municipal ordinance adopted by a local authority, regulating the operation of vessels on the waters, shall forward to the commissioner, within 10 days of a record of the conviction of any person in the court for a violation of any laws for which the person is subject to boater safety certification or vessel operating privilege suspension or revocation, and the court may recommend the suspension of the certification or vessel operating privilege of the person so convicted.

(i) For the purposes of this section, the term "conviction" shall mean a final conviction. Also, for the purposes of this section, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, a plea of nolo contendere accepted by the court, the payment of a fine, a plea of guilty or a finding of guilt of a boating or vessel operation violation charge, shall be equivalent to a conviction regardless of whether the penalty is rebated, suspended, or probated.

(j) The commissioner shall forthwith revoke the certification or vessel operating privilege of any person upon receiving a record of the person's conviction of any of the following offenses:

(1) Manslaughter or homicide by vehicle or vessel resulting from the operation of a vessel.

(2) Any violation of Section 32-5A-191 of the Code of Alabama 1975, which requires revocation.

(3) Any offense of any law or regulation for which mandatory revocation is required upon conviction.

(4) Any felony in the commission of which a vessel is used.

(5) Failure to stop, render aid, or identify the person as required under the laws of this state in the event of a boating accident resulting in the death or personal injury of another.

(6) Perjury or the making of a false affidavit or statement under oath to the Director of Public Safety or Commissioner of Conservation and Natural Resources under this act or under any other law or regulation relating to the ownership or operation of vessels.

(7) Conviction upon three charges of reckless or careless operation of a vessel committed within a period of 12 months.

(8) Unauthorized use of a vessel belonging to another, which act does not amount to a felony.

(k) The Commissioner of Conservation and Natural Resources may suspend the certification or operating privilege of a vessel operator without preliminary hearing upon a showing by its records or other sufficient evidence that the operator did the following:

(1) Has committed an offense for which mandatory revocation is required upon conviction.

(2) Has been convicted of any offense under Section 32-5A-191 of the Code of Alabama 1975, which provides for suspension.

(3) Has been convicted of any offense of any law or regulation which provides for suspension.

(4) Has been convicted with frequency of serious offenses against boating or vessel operation laws or regulations governing the movement of vessels as to indicate a disrespect for boating or vessel operation laws and a disregard for the safety of other persons on the waters of this state.

(5) Is an habitually reckless, careless, or negligent operator of a vessel, established by a record of accidents, or by other evidence.

(6) Is incompetent to operate a vessel.

(7) Has permitted an unlawful or fraudulent use of certification.

(8) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation.

(9) Has been convicted of fleeing or attempting to elude a Marine Police Officer.

(10) Has violated a restricted boater safety certification pursuant to Section 14 of this act.

(l) Upon suspending the certification or operating privilege of any person, the Commissioner of Conservation and Natural Resources shall immediately notify the person in writing and upon request shall afford the person an opportunity for a hearing as early as practicable, not to exceed 30 days after receipt of the request, in the county where the person resides or in Montgomery County in the case of a nonresident, unless the Commissioner of Conservation and Natural Resources and the person agree that the hearing may be held in some other county. The hearing shall be before the Commissioner of Conservation and Natural Resources or a duly authorized agent. At the hearing the Commissioner of Conservation and Natural Resources, or duly authorized agent, may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the person. At the hearing, the Commissioner of Conservation and Natural Resources, or duly authorized agent, shall either rescind its order of suspension or, upon good cause shown, may continue, modify, or extend the suspension or revoke the certification or operating privilege of the person. If the certification or operating privilege has been suspended as a result of the person's operation while under the influence of alcohol, the commissioner or agent conducting the hearing shall take into account, among other relevant factors, the person's successful completion of any duly established waterway intoxication seminar, "DUI counterattack course", or similar educational program designed for problem drinking operators. If the hearing is conducted by a duly authorized agent instead of by the Commissioner of Conservation and Natural Resources, the action of the agent shall first be approved by the Commissioner of Conservation and Natural Resources prior to implementation.

(m) At the end of the period of suspension, a certification surrendered to the Commissioner of Conservation and Natural Resources under subsection (n) shall be returned to the person.

(n) The Commissioner of Conservation and Natural Resources upon cancelling, suspending, or revoking a certification shall require that proof of certification and any duplicates be surrendered to and be retained by the Commissioner of Conservation and Natural Resources. Any person whose certification has been cancelled, suspended, or revoked shall immediately return the certification and any duplicates to the Commissioner of Conservation and Natural Resources. If the person refuses to surrender the certification, the person shall be guilty of a Class C misdemeanor punishable as provided by law.

(o) Any resident or nonresident whose certification or privilege to operate a vessel in this state has been suspended or revoked, as

provided in this section, shall not operate a vessel in this state under a certification, or other approved valid document issued by any other jurisdiction or otherwise during the suspension or after revocation until a new Alabama certification or privilege is obtained as permitted under this act.

(p) Any person denied a certification or whose certification or operating privilege has been cancelled, suspended, or revoked by the Commissioner of Conservation and Natural Resources, except where cancellation, suspension, or revocation is mandatory under this act, shall have the right to file a petition within 30 days for a hearing in the matter in the circuit court in the county wherein the person resides, or in the case of cancellation, suspension, or revocation of a nonresident's certification or operating privilege in the county in which the main office of the Commissioner of Conservation and Natural Resources is located, and the circuit court is vested with jurisdiction for hearing the petitions for certification or operating privilege. The circuit court shall set the matter for hearing upon 30 days' written notice to the Commissioner of Conservation and Natural Resources and take testimony, examine the facts of the case, and determine whether the petitioner is entitled to a certification or operating privilege under this section or is subject to suspension, cancellation, or revocation.

Section 30. A uniformed police officer, state trooper, state law enforcement officer, state marine police officer, county sheriff, a deputy, or a member of a municipal police force, may arrest, at the scene of a boating accident, any operator of a boat or vessel involved in the accident if upon personal investigation, including information from eyewitnesses, the officer has reasonable grounds to believe that the person, by violating Section 32-5A-191, contributed to the accident. The law enforcement officer may arrest the person without a warrant although the officer did not personally see the violation.

Section 31. (a) It shall be unlawful in this state for any person to violate the federal laws or rules regulating the horsepower of the engines of the vessels operating on the waters of this state.

(b) Any person violating this section shall be guilty of a Class C misdemeanor that is punishable, upon conviction, as provided by Sections 13A-5-7 and 13A-5-12, Code of Alabama 1975. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(c) The effective date of only this section shall be five years from the effective date of this act.

Section 32. For the purposes of this act, the term "vessel" shall be as defined by Section 33-5-3, Code of Alabama 1975.

Section 33. The Commissioner of Conservation and Natural Resources may implement and enforce reasonable and necessary rules and regulations to enforce this act.

Section 34. Law enforcement officers while performing their duties shall be exempt from this act while enforcing the speeding and regulatory laws pursuant to this act. No law enforcement officer shall be personally exempt from Section 32-5A-191.

Section 35. The State Department of Education shall require a segment of the approved driver education curricula to include boating safety in Alabama, beginning with the 1994-95 school year. The boating safety curricula shall be approved in writing by the Commissioner of Conservation and Natural Resources and the State Superintendent of Education.

Section 36. All other laws in conflict with this act are hereby repealed to the extent of their conflict with this act and Section 33-5-24, Code of Alabama 1975, are specifically repealed.

Section 37. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 38. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 28, 1994

Time: 10:00 A.M.

Act No. 94-653

H. 780 – Rep. Hooper

AN ACT

'To provide for the offense of making false statements to obtain or deny workers' compensation benefits.

Be It Enacted by the Legislature of Alabama:

Section 1. Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining compensation, as defined in Section 25-5-1(1), Code of Alabama 1975, as amended, for himself or herself or any other person is guilty of a Class C felony.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 28, 1994

Time: 2:05 P.M.

Act No. 94-654

H.J.R. 429 – Rep. Box

HOUSE JOINT RESOLUTION

COMMENDING THE DIRECTOR, CAST, AND CREW OF
“BOYS AND GHOULS TOGETHER.”

WHEREAS, it is with great pleasure that the Alabama Legislature recognizes and applauds the director, cast, and crew of “Boys and Ghouls Together” on an outstanding production; and

WHEREAS, on April 11-12, 1994, the seniors of Satsuma High School presented a delightfully funny and entertaining version of David Rogers’ “Boys and Ghouls Together,” a fanciful escape from reality into the world of ghouls and goblins, and other things that go bump in the night; and

WHEREAS, the production was brilliantly directed by Mary Atchison and artistically staged by Mark Clearmon, Josh Moore, Dameon Norris and artist Amanda Napper; giving outstanding performances were talented cast members: Jennifer Terrell, Heather Whigham (selected Best Actress), David McCarty (Best Supporting Actor), Melody Lloyd, Stephanie Hudson, Tommy Thompson (Best Actor), Jeremy Pierson, Stephanie Harris, Brooke Persons, Lee Robbins, Amy Smallwood, Valerie Hare, Ryan Monju, Alex Haupt, Darlena Hollingsworth (Best Supporting Actress), and Elvis Howell, with special appearances by Kevin Kidd; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition and tribute to an outstanding performance, we hereby most highly commend the director, cast, and crew of “Boys and Ghouls Together,” each of whom shall be provided a copy of this resolution.

Approved April 29, 1994

Time: 11:40 A.M.

Act No. 94-655

H. 540 – Reps. Laird, Turner

AN ACT

To amend Section 9-11-32, Code of Alabama 1975, relating to the dates that hunting and fishing licenses are valid, so as to further provide for the dates or time period that certain hunting and fishing licenses are valid.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-11-32, Code of Alabama 1975, as last amended, is amended to read as follows:

“§9-11-32.

“Except as provided in this section, all licenses shall be dated when issued and shall authorize the person named on the license to hunt or fish from October 1 or the date of issuance to the next to September 30, and then only within the regulations and restrictions provided by law. The license year for the hunting licenses provided for in sections 9-11-44, 9-11-46, and 9-11-47 shall begin on August 1 of each year and shall end on July 31 of the next year, and the fishing licenses provided for in Sections 9-11-53, 9-11-53.1, 9-11-53.2, and 9-11-55 and the annual nonresident saltwater fishing license provided by Section 6 of Act No. 93-322 (now appearing in Section 9-11-55.2) and the annual nonresident combination saltwater-freshwater fishing license provided by Section 7 of Act No. 93-322 (now appearing in Section 9-11-55.3) shall expire one year from the date of issuance.”

Section 2. Any hunting or fishing license issued prior to the effective date of this act shall be valid for the longer of the time period for which the license was originally issued or the time provided by this amendatory act.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 29, 1994

Time: 11:41 A.M.

Act No. 94-656

H. 924 – Reps. Cosby, Thomas, Bryant
AN ACT

Relating to Dallas County; providing further for the salary of the sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing with the beginning of the next term of office of the Sheriff of Dallas County, and upon the adoption of a resolution by a majority of the membership of the Dallas County Commission approving the salary increase provided by this act, the annual salary for the sheriff shall be increased by fifteen thousand dollars (\$15,000) per annum, payable in equal monthly installments from the general fund of the county.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved May 2, 1994

Time: 8:20 A.M.

Act No. 94-657

H. 904 – Rep. Harvey

AN ACT

Relating to Blount County; to further provide for the compensation of the judge of probate.

Be It Enacted by the Legislature of Alabama:

Section 1. Immediately upon the effective date of this act, the salary of the Judge of Probate of Blount County shall be increased by the amount of three hundred dollars (\$300) per month, and upon receipt of the salary increase provided by this act, the judge of probate shall no longer receive the expense allowance in the same amount currently provided by law to the judge of probate as a member of the county commission.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:21 A.M.

Act No. 94-658

H. 759 – Reps. Sanderson, Spratt

AN ACT

Relating to retirement or participant benefits and spouse's or survivor's benefits paid by certain pension, relief, or retirement systems of Class 1 municipalities to persons who are covered under the Policemen's Pension and Relief Fund provided by Act No. 502 of the 1923 Session of the Legislature, as amended, the Fireman's

Pension and Relief Fund provided by Act No. 307 of the 1943 Session of the Legislature, as amended, the Separate Policeman's Retirement and Relief System provided by Act No. 470 of the 1955 Regular Session of the Legislature, as amended, or the Separate Firemen's Pension and Relief System provided by Act No. 217 of the 1966 Special Session of the Legislature, as amended, to provide further for certain minimum monthly benefits payable under the systems to certain persons.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding any other laws, in Class 1 municipalities, any benefit payable on a monthly basis to a participant or retiree under the Policemen's Pension and Relief Fund provided by Act No. 502 of the 1923 Session of the Legislature, as amended, the Firemen's Pension and Relief Fund provided by Act No. 307 of the 1943 Session of the Legislature, as amended, the Separate Policemen's Retirement and Relief System provided by Act No. 470 of the 1955 Regular Session of the Legislature, as amended, or the Separate Firemen's Pension and Relief System provided by Act No. 217 of the 1966 Special Session of the Legislature, as amended, shall be in an amount not less than five hundred fifty dollars (\$550) per month, and any survivor's or spouse's benefit payable therefrom on a monthly basis shall be in an amount not less than three hundred twenty dollar (\$320) per month.

Section 2. This act shall become effective on the first day of the first month after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:22 A.M.

Act No. 94-659

H. 825 – Reprs. Walker, Hooper, Knight (J),
McKee, Holmes, Mikell

AN ACT

To provide that the sheriff of Montgomery County, at his or her discretion, may provide a retiring officer his badge and pistol.

Be It Enacted by the Legislature of Alabama:

Section 1. Any individual employed by the Montgomery County sheriff's department as a law enforcement officer for a period of 10 years or more who retires from the department in good standing may receive from the sheriff without cost, a retired badge, a retired commission card, and a pistol, provided the pistol is furnished by the department.

Section 2. The provisions of this act are retroactive to January 2, 1970.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains. This act shall be construed and, if necessary, reconstrued to make its provisions constitutional.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:23 A.M.

Act No. 94-660

H. 856 – Rep. Rogers (J)

AN ACT

Relating to Jefferson County; to provide that each Commissioner of the Jefferson County Commission shall be entitled to have either an automobile with fuel, oil, and repairs furnished by Jefferson County for use in carrying out official duties as a commissioner, or a certain expense allowance as reimbursement for the commissioners' use of a personal vehicle and fuel, oil, and repairs for official duties.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Jefferson County.

Section 2. (a) Each commissioner of the Jefferson County Commission shall have the option of electing, as provided in this act, either: (1) to have an automobile with fuel, oil, and repairs furnished by Jefferson County, for use in carrying out his or her official duties as a commissioner; or in lieu of an automobile, (2) to have an expense allowance from the county of four hundred dollars (\$400) per month or portion of a month as reimbursement for the commissioners' use of a personal vehicle and fuel, oil, and repairs for his or her official duties.

(b)(1) Each Jefferson County Commissioner shall inform the Jefferson County Commission in writing within 30 days of the effective date of this act of his or her election pursuant to subsection (a)(1) or subsection (a)(2) above.

(2) Thereafter, each county commissioner shall, within 60 days after taking office, inform the county commission in writing of his or her election pursuant to subsection (a)(1) or subsection (a)(2) above.

(3) The election authorized by this act shall apply for the remainder of the commissioner's term of office. An election may be changed as follows: Within 30 days of the beginning of each fiscal year, a commissioner may make a new election by informing the county commission of the change in writing.

(4) The county commission may provide the county automobiles elected under this act from the existing county fleet or as a new purchase at the discretion of the commission. The county commissioners shall be entitled to receive the expense allowance authorized in this act pending delivery of any automobile elected in this act.

Section 3. The provisions of this act shall be cumulative with, and not in lieu of, any other law providing an allowance to the county commissioners. All laws or parts of laws which conflict with this act are repealed to the extent of any conflict.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:24 A.M.

Act No. 94-661

H. 882 Rep. Williams

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Napier Field in Dale County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Napier Field in Dale County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

Beginning at a point where the center line of County Road Number 25 intersects the South right-of-way line of (Old U. S. 231) Phillip J. Hamm Drive; thence running East and Southeast along the South right-of-way line of (Old U. S. 231) Phillip J. Hamm Drive to the existing city limits line of the Town of Grimes, Alabama, said line

being the South Forty line of the NE 1/4 of NE 1/4, Section 20, T4N, R26E, Dale County, Alabama; thence running East along said South Forty line and the existing line of the Town of Grimes to a point where the South Line of the NE 1/4 of NE 1/4, Section 20, T4N, R26E, Dale County, Alabama, intersects the existing city limits line of the Town of Napier Field, Alabama; thence running Northwest and West along the existing city limits line of the Town of Napier Field to the Southwest corner of the existing city limits of the Town of Napier Field; thence continuing West along the North right-of-way line of Seaboard System Railroad to the center line of Wallace Drive, said Center Line of Wallace Drive being the West Forty line of the NW 1/4 of NW 1/4, Section 20, T4N, R26E, Dale County, Alabama; thence running South along the center line of Wallace Drive to a point where Wallace Drive intersects the center line of (Old U. S. 231) Phillip J. Hamm Drive, said point also being the center line intersections of (Old U. S. 231) Phillip J. Hamm Drive and County Road Number 25; thence continuing South along the center line of County Road Number 25 to the South right-of-way line of (Old U. S. 231) Phillip J. Hamm Drive and the Point of Beginning.

Said addition to the Town of Napier Field being in and a portion of the NW 1/4 of NW 1/4, NE 1/4 of NW 1/4, NW1/4 of NE 1/4 and NE 1/4 of NE 1/4, Section 20, T4N, R26E, Dale County, Alabama.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Napier Field is on file in the office of the Judge of Probate in Dale County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:25 A.M.

Act No. 94-662

H. 446 – Reprs. McDowell, Spratt, Perdue,
Newton (D)

AN ACT

Relating to Jefferson County; providing for an additional expense allowance for the Deputy Treasurer, Bessemer Division.

Be It Enacted by the Legislature of Alabama:

Section 1. The Deputy Treasurer of Jefferson County, Bessemer Division, shall be entitled to receive an additional annual expense allowance in the amount of ten thousand dollars (\$10,000) to be paid out of the county general fund in equal monthly installments. This expense allowance shall be in addition to any and all other compensation, salary, and expense allowances provided for by law.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:26 A.M.

Act No. 94-663

H. 447 – Reps. McDowell, Spratt, Perdue,
Newton (D)

AN ACT

Relating to Jefferson County; to fix the salary of the Deputy Judge of Probate for the Bessemer Division.

Be It Enacted by the Legislature of Alabama:

Section 1. In Jefferson County, the Deputy Judge of Probate for the Bessemer Division of the Probate Court shall receive a salary of fifty thousand, two hundred twenty dollars (\$50,220.00) per annum. The salary shall be paid out of the county treasury in equal monthly installments or equal bi-weekly installments.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:27 A.M.

Act No. 94-664

H. 607 – Reps. Hilliard, Spratt, McClain,
Rogers (J), Barnes

AN ACT

To amend Act No. 556 of the 1959 Regular Session (Acts 1959, p. 1376), establishing a Firemen's and Policemen's Supplemental Pension System for the City of

Birmingham; to authorize the City of Birmingham as employer of the members of the Firemen's and Policemen's Supplemental Pension System to pay certain employee contributions for certain members of the system.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 556 of the 1959 Regular Session (Acts 1959, p. 1376), is amended to read as follows:

"Section 3. (a) There is established in and for the city a pension system which shall be known as Firemen's and Policemen's Supplemental Pension System. For the purpose of brevity the system will at times hereinafter be referred to as 'the Supplemental Pension System.'

"(b) Any other provision of law notwithstanding, the City of Birmingham, as the employer, shall have the authority to adopt a program and plan amendments relating to the employee members of the Firemen's and Policemen's Supplemental Pension System meeting the requirements of the United States Internal Revenue Code, as amended, to allow employer payment of required participant contributions in lieu of salary or wages."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:28 A.M.

Act No. 94-665

H. 829 – Rep. Newton (D)

AN ACT

Relating to Jefferson County; to provide for the maintenance, operation, and financing of the public law library for the Birmingham Division of the Tenth Judicial Circuit; to impose additional court costs to certain court costs presently in effect in the Birmingham Division of the Tenth Judicial Circuit of Alabama; to provide for the payment of those funds into the existing Birmingham Division Law Library Fund; to provide that the presiding circuit judge shall administer the Birmingham Division Law Fund and public law library; and to provide that the costs and charges collected be placed in a "Treatment to Alternative Street Crime Fund" and to provide for distribution of the funds.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Jefferson County.

Section 2. (a) Notwithstanding any special, local, or general law to the contrary, there is levied on all cases in district court, an additional fee of seven dollars (\$7) and in circuit court, an additional fee of two dollars (\$2). When collected by the clerk of the district court, five dollars (\$5) of the fee collected in each case shall be remitted monthly to the program director of the Treatment to Alternative Street Crime (TASC), who shall deposit the funds in a special fund known as the "TASC Fund," and two dollars (\$2) of the fee collected in each case in the district and circuit court shall be remitted to the Birmingham Division Law Library Fund.

(b) The TASC Fund shall be maintained by the University of Alabama at Birmingham, with the director of the TASC program having the authority to draw upon the funds.

(c) The appropriation from the funds shall be strictly limited to TASC programs endorsed by the director of the TASC program and approved by the presiding criminal court judge.

(d) The presiding circuit judge of the Tenth Judicial Circuit shall administer the Birmingham Division Law Library Fund, disburse the funds, and appoint librarians and assistants as are necessary for the proper operation of the library. The presiding circuit judge may appoint an advisory committee to the law library.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:29 A.M.

Act No. 94-666

H. 906 – Rep. Hill

AN ACT

Relating to Shelby County; to impose a fee on the privilege of engaging in the business of buying, selling, or renting real property in the county.

Be It Enacted by the Legislature of Alabama:

Section 1. Any law to the contrary notwithstanding, effective January 1, following the effective date of this act, an annual business license fee of twenty-nine dollars (\$29) is imposed on all corporations, firms, brokers, agents, and other persons or entities engaged in Shelby County in the business of buying, selling, managing, leasing or renting of real estate on commission in Shelby County. The license fee shall be paid annually, at the same time as the license fee imposed under Section 40-12-149, Code of Alabama 1975, is paid and shall be remitted to the License Commissioner of Shelby County on forms developed by the commissioner.

Section 2. After subtracting two dollars (\$2) from each license as an administrative fee, the License Commissioner of Shelby County shall distribute the proceeds from the license fees collected pursuant to this act to each city and municipality in Shelby County on a pro rata basis according to population.

Section 3. This act shall be implemented only upon the ratification of that certain Amendment to the Constitution of Alabama of 1901, proposed during the 1994 Session of the Legislature, authorizing Shelby County to levy additional license fees on certain real estate operations and transactions. It is specifically provided that if the proposed constitutional amendment is not ratified this act shall become null and void.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:30 A.M.

Act No. 94-667

H. 910 – Reps. Penry, McMillan

AN ACT

Relating to the Twenty-eighth Judicial Circuit of Alabama by authorizing the district attorney to establish a Restitution Recovery Division within the office of the district attorney; to provide for collection and the enforcement of court orders in certain cases of nonpayment of restitution to victims of crime, court costs, fines, penalty payments, victim compensation assessments, and bond forfeitures; to provide a collection fee; to provide funding for the new Restitution Recovery Division; and to provide for a circuit clerk's fund to assist the clerk in the implementation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in the Twenty-eighth Judicial Circuit.

Section 2. The purpose of this act is to ensure that court-ordered restitution to crime victims, victim compensation assessments, bail bond forfeitures, court costs required by law, fines levied against criminals for wrongful conduct, and other court-ordered sums payable to the state or to the crime victims be paid in full and that cost of collection be borne by the person who is responsible for payment.

Section 3. The district attorney may establish a special division designated the "Restitution Recovery Division" for the administration, collection, and enforcement of court costs, fines, penalty payments, victim compensation assessments, bail bond forfeitures, restitution, or like payments in civil or criminal proceedings ordered by the court and payable to the state or to crime victims, or judgments entered which have not been otherwise vacated or judicial relief given from the operation of the order or judgment.

Section 4. The court, the clerk of the court, or a probation officer shall notify the district attorney in writing when any bail bond forfeitures, court costs, fines, penalty payments, crime victims' restitution, or victims' compensation assessments or like payments in any civil or criminal proceeding ordered by the court to be paid to the state or to crime victims have not been paid or are in default and the default has not been vacated. Upon written notification to the district attorney, the Restitution Recovery Division of the district attorney's office may collect or enforce the collection of funds that have not been paid or that are in default which, under the direction of the district attorney, are appropriate to be processed. In no event shall a court, court clerk, or probation officer notify the district attorney in less than 90 days from the date the payments are due to be paid in full.

Section 5. After notification, as provided in Section 4, the district attorney may take all lawful steps necessary in order to require compliance with the court-ordered payments including any of the following: (1) a petition for revocation of probation; (2) a show cause petition for contempt of court; (3) any other civil or criminal proceedings which may be authorized by law or by rule of court. In addition the district attorney may issue appropriate notices to inform the defendant of the noncompliance of the defendant and a warning of the penalty for noncompliance.

Section 6. After a matter has been transferred to the district attorney under Section 4, a court shall assess a collection fee of 30 percent of the funds due which shall be added to the amount of funds due. Any amount collected pursuant to this statute shall be distributed as follows:

(a) Seventy-five percent of the collection fee shall be distributed to the County District Attorney Fund to be expended for lawful purposes for the operation of the office of the district attorney. Funds provided to

the district attorney by this act shall not reduce the amount payable to the district attorney under any local act or general act or reduce or affect the amounts of funding of the budget allocated by law. The funds shall be audited as all other state funds are audited.

(b) Twenty-five percent of the collection fee shall be distributed to the Circuit Clerk's Fund which shall be kept and maintained by the circuit clerk in a separate account to be used for the operation of the office of the clerk to include, but not be limited to, equipment purchases, education, and other office-related expenses including personnel. Funds retained by the circuit clerk shall not reduce the amount payable to the circuit clerk under any local act or general act or reduce or affect the amounts of funding of the budget of the circuit clerk allocated by the Administrative Office of Courts. The funds shall be audited as all other state funds are audited.

The remainder of the fees, fines, penalties, charges, court costs, and bail bond forfeitures after the deduction for collection shall be disbursed as provided by law on a monthly basis.

(c) This act shall not affect the right of the office of the district attorney to proceed with the prosecution of any violation as currently provided by law.

Section 7. There shall be an amnesty period of 60 days after the effective date of this act during which any person may voluntarily pay in full any duly assessed court costs, fines, victim compensation assessments, bail bond forfeitures, penalty payments, restitution, or like payments in default. Commencing with the sixty-first day after the effective date of this act, the enforcement and collection procedures provided in this act shall be implemented.

Section 8. In addition to the provisions of this act, all court costs, fines, victim compensation assessments, bail bond forfeitures, and restitution, and other court-ordered charges shall be considered a civil judgment which can be recorded and enforced in the manner provided by law.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. The provisions of this act are supplemental to any procedures for the enforcement and collection of any court-ordered sums or forfeitures.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:31 A.M.

Act No. 94-668

H. 922 – Reps. Cosby, Thomas, Bryant

AN ACT

Relating to Dallas County; to provide for the distribution of beer tax revenue collected in the corporate limits and police jurisdiction of the Town of Orrville.

Be It Enacted by the Legislature of Alabama:

Section 1. In Dallas County, pursuant to Section 28-3-190 (c)(3), Code of Alabama 1975, the entire tax collected on beer sales inside the corporate limits and police jurisdiction of the Town of Orrville shall be paid as follows: 72.23 percent shall be paid to the town and 27.77 percent shall be paid to the Dallas County Commission.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:32 A.M.

Act No. 94-669

H. 923 – Reps. Cosby, Thomas, Bryant

AN ACT

Relating to Dallas County; providing for an additional special transaction fee on certain public business filed and transacted in the office of the revenue commissioner; and providing for disposition of funds from the additional fees.

Be It Enacted by the Legislature of Alabama:

Section 1. The Dallas County Commission may impose a special transaction fee not exceeding five dollars (\$5) to be paid to the Dallas County Revenue Commissioner when public business is transacted in the office of the revenue commissioner. The fee may only be imposed by the commission after two public hearings have been held on the proposed transaction fee held at least one week apart. The public hearings shall be advertised for three consecutive days prior to each hearing. After the public hearings, the fee may be imposed pursuant to this section, at a regular or special call meeting of the Dallas County Commission upon the adoption by the commission of a resolution by a majority vote of the total membership. The special additional transaction fee pursuant to this act shall be collected by the revenue commissioner and

deposited in the county general fund for appropriation for general county purposes.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:33 A.M.

Act No. 94-670

H. 539 – Rep. Rogers (F)

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the City of Graysville, Jefferson County, annexing certain territory to the city.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines and corporate limits of the City of Graysville, Alabama, be and hereby are altered or rearranged so as to include within the corporate limits and within the boundaries of said municipality all territory now within the corporate limits and within the boundaries of said municipality, and also certain other territory in Jefferson County, Alabama, described as follows, to wit:

PARCEL I

Township 16 South, Range 4 West

Section 21. That part of the South-East quarter of South-East quarter lying southeast of the center line of Blossburg Road except the west 1,000 feet of the south 250 feet. Containing 3.08 acres.

Section 22. That part of the South half of South-West quarter lying southeast of the center line of Blossburg Road. Containing 72.75 acres.

Section 26. The South-West quarter of North-West quarter; the South-West quarter. Containing 200.00 acres.

Section 27. The South half of the North-East quarter; the North-West quarter except the North half of South-East quarter of North-West quarter except the following described tract. Begin at the southwest corner of said quarter; thence in a northerly direction along the west line of said quarter section 2,041.79 feet; thence turning an angle of 89 degrees 52 minutes to the right in an easterly direction 209.00 feet; thence turning an angle of 90 degrees 08

minutes to the right in a southerly direction 450.00 feet; thence turning an angle of 90 degrees 08 minutes to the left in an easterly direction 691.00 feet; thence turning an angle of 90 degrees 08 minutes to the right in a southerly direction 1,594.44 feet to intersection with the south line of said quarter section; 07 seconds to the right in a westerly direction along said south line 800.00 feet to point of beginning; the West half of South-East quarter of right-of-way of Southern Railroad Company; the north 43.00 acres of the East half of South-East quarter. Containing 448.42 acres.

Section 28. The North-East quarter of North-East quarter except the following described tract: Begin at the northwest corner; thence south along the west boundary 250.00 feet; thence east parallel with the north boundary 800.00 feet; thence north parallel with the west boundary 250.00 feet to the north boundary; thence west along the north boundary 800.00 feet to point of beginning; the South-East quarter of North-East quarter except the following described tract: Begin at the southwest corner; thence north along the west boundary of said quarter-quarter section 734.00 feet; thence east along a line parallel to the south boundary of angle of 80 degrees 50 minutes 15 seconds to the right west along said south boundary 17.70 feet to point of beginning; that part of the North half of South-East quarter described as follows: Begin at the northeast corner of said half-quarter section; thence in a southerly direction along the east boundary of said half-quarter section 570.90 feet; thence turning an angle of 89 degrees 52 minutes to the right in a westerly direction 275.00 feet; thence turning an angle of 89 degrees 52 minutes to the left in a southerly direction 300.00 feet; thence turning an angle of 89 degrees 31 minutes to the right in a westerly direction 1,120.35 feet to intersection with the center line of a road; thence turning an angle of 88 degrees 03 minutes to the right in a northwesterly direction along the center line of said road 218.10 feet; thence turning an angle of 11 degrees 15 minutes to the right in a northeasterly direction along the center line of said road 663.21 feet to intersection with the north boundary of said half-quarter section; thence turning an angle of 80 degrees 50 minutes 15 seconds to the right in an easterly direction along said north boundary 1,302.40 feet to point of beginning. Containing 101.48 acres.

Section 34. The North-East quarter of North-East quarter. Containing 40.00 acres.

Section 35. The North half of North-West quarter. Containing 80.00 acres.

PARCEL II

The SE quarter of the NE quarter of Section 22, Township 16 South, Range 4 West, Jefferson County, Alabama. Containing 40 acres.

PARCEL III

The SW quarter of the NE quarter of Section 22, Township 16 South, Range 4 West, Jefferson County, Alabama, less the following:

EXCEPTION ONE: Lots 7, 8, 9 and 10 of Block 9 of the survey of Tutwiler subdivision as recorded in Map Book 4, Page 106 in the Office of the Probate Judge of Jefferson County, Alabama, being more particularly described as follows: Commence at the NE corner of the SW quarter of the NE quarter of Section 22, Township 16 South, Range 4 West; thence run south along the east line of said Quarter-Quarter 134.00 feet; thence deflecting right 60 degrees 30 minutes run 1070.00 feet to the point of beginning; thence deflecting left 90 degrees run 390.00 feet; thence deflecting right 90 degrees run 100.00 feet; thence deflecting right 90 degrees run 390.00 feet; thence deflecting right 90 degrees run 100.00 feet to the point of beginning. Containing 0.90 acres.

EXCEPTION TWO: Begin at the SW corner of the SW quarter of the NE quarter of Section 22, Township 16 South, Range 4 West; thence run east along the South line of said Quarter-Quarter 702.61 feet; thence deflecting left 99 degrees 36 minutes 45 seconds run 212.96 feet; thence run west and parallel to the South line of said Quarter-Quarter 670.44 feet to the West line of said Quarter-Quarter; thence run South along West line 210.00 feet to the point of beginning.

INGRESS/EGRESS EXCEPTION: Commence at the SW corner of the SW quarter of the NE quarter of Section 22, Township 16 South, Range 4 West; thence run east along the South line of said Quarter-Quarter 702.61 feet to the point of beginning; thence continue along the last described course 50.71 feet; thence deflecting left 99 degrees 36 minutes 45 seconds run 263.67 feet; thence deflecting left 80 degrees 59 minutes 15 seconds run 90.27 feet; thence deflecting right 59 degrees 34 minutes 24 seconds run 59.64 feet; thence deflecting left 90 degrees 00 minutes run 100.00 feet; thence deflecting left 90 degrees 00 minutes run 58.90 feet; thence deflecting left 59 degrees 34 minutes 24 seconds run 134.64 feet; thence deflecting right 80 degrees 23 minutes 15 seconds run 212.96 feet to the point of beginning. Containing 0.4 acres.

PARCEL IV

Begin at the NW corner of the NE quarter of the SE quarter; thence run 87 degrees 37 minutes 1 second east 1329.84 feet along the north line of said Quarter-Quarter to the NE corner of said Quarter-Quarter; thence run south 3 degrees 25 minutes 59 seconds east along the East line of said Quarter-Quarter 1324.75 feet to the SE corner of said Quarter-Quarter; thence run west along the South line of said Quarter-Quarter 621.64 feet; thence deflecting right 102 degrees 37 minutes 43 seconds run 53.23 feet; thence deflecting left 94 degrees 19 minutes 47 seconds run 92.68 feet; thence deflecting right 91 degrees

58 minutes 53 seconds run 184.72; thence deflecting left 88 degrees 08 minutes 48 seconds run 193.87 feet; thence deflecting left 89 degrees 30 minutes 18 seconds run 260.00 feet; thence deflecting right 84 degrees 25 minutes 02 seconds run 100.00 feet; thence deflecting left 90 degrees run 47.33 feet to the South line of said Quarter-Quarter; thence run west along said line 221.68 feet to a point 90.00 feet east of the SW corner of said Quarter-Quarter; thence deflecting right 89 degrees 00 minutes 09 seconds run 75.00; thence deflecting left 89 degrees 00 minutes 09 seconds run 70.00 feet; thence deflecting right 139 degrees 00 minutes 09 seconds run 65.00 feet; thence deflecting left 41 degrees 57 minutes 24 seconds run 80.00 feet; thence deflecting left 90 degrees run 212.78 feet to the Northerly Right of Way of a paved County Road; thence deflecting right 90 degrees run along said Right of Way 205.72 feet; thence deflecting right 90 degrees run 170.00 feet; thence deflecting left 90 degrees run 210.00 feet; thence deflecting left 90 degrees run 170.00 feet to the North Right of Way of a paved County Road; thence deflecting right 91 degrees 47 minutes 27 seconds run along said Right of Way 184.55 feet; thence deflecting right 70 degrees 55 minutes 05 seconds run 224.77 feet; thence deflecting left 76 degrees 30 minutes run 100.00 feet; thence deflecting right 79 degrees 13 minutes 56 seconds run 666.28 feet to the North line of the NW quarter of SE quarter; thence deflecting right 55 degrees 31 minutes 40 seconds run east along said North line 100.00 feet to the point of beginning.

PARCEL V

Begin at the SE corner of the SE quarter of the NW quarter of Section 22, Township 16 South, Range 4 West; thence run north along the East line of said Quarter-Quarter 450.00 feet; thence run west and parallel to the South line of said Quarter-Quarter 450.00 feet; thence run south and parallel to the East line of said Quarter-Quarter 450.00 feet to the South line of said Quarter-Quarter; thence run east along said South line 450.00 feet to the point of beginning. Containing 4.6 acres, more or less.

PARCEL VI

The NW quarter of the NE quarter of Section 22, Township 16 South, Range 4 West, LESS AND EXCEPT:

EXCEPTION ONE: Begin at the NE corner of the N quarter of the NE quarter of Section 22, Township 16 South, Range 4 West; thence run west along the North line of said Quarter-Quarter 370.8 feet; thence deflecting left 68 degrees 30 minutes run 400.00 feet; thence deflecting left 59 degrees 45 minutes run 555.00 feet; thence deflecting left 40 degrees 30 minutes run 192.9 feet to the East line of said Quarter-Quarter; thence deflecting left 102 degrees 19 minutes run north along said East line 846.88 feet to the point of beginning. Containing 7.5 acres.

EXCEPTION TWO: Commence at the NE corner of the NW quarter of the NE quarter of Section 22, Township 16 South, Range 4 West; thence run west along the North line of said Quarter-Quarter 370.8 feet to the point of beginning; thence deflecting left 68 degrees 30 minutes run 400.00 feet; thence deflecting right 106 degrees 52 minutes run 315.02 feet; thence deflecting right 97 degrees 44 minutes run 255.00 feet to the North line of said Quarter-Quarter; thence deflecting right 43 degrees 54 minutes run east along said North line 210.00 feet to the point of beginning.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Section 4. In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, maps showing what territories proposed to be annexed to the City of Graysville are on file in the office of the Judge of Probate in Jefferson County, Alabama, and such maps are open to the inspection of the public.

Approved May 2, 1994

Time: 8:34 A.M.

Act No. 94-671

H. 555 – Rep. Carter

AN ACT

Relating to Limestone County; authorizing the Limestone County Commission to further regulate and license the operation of junkyards and prohibit certain accumulation and storage of junk, inoperable motor vehicles, and other litter within the unincorporated territory of the county; to provide that certain acts constitute a public nuisance and are unlawful; to provide certain exceptions; to provide civil remedies including actions to enjoin and abate conduct constituting a public nuisance; to provide that the county commission may regulate and establish requirements for issuing licenses to operate junkyards or store junk; and to provide for the annual license fee for the privilege of operating a junkyard in the unincorporated area of the county under certain conditions.

Be It Enacted by the Legislature of Alabama:

Section 1. The regulation of the accumulation and storage of junk, inoperable motor vehicles, and other litter within the unincorporated areas of Limestone County, and licensing the operation of junkyards within the unincorporated areas of Limestone County is hereby declared to be in the public interest and necessary to promote the public safety, health, welfare, convenience, and enjoyment of public travel; to protect the public investment in public highways; to preserve and enhance the scenic beauty of

lands and the environment; and to promote the conservation of natural mineral resources by encouraging recycling. The Legislature finds and declares that within the unincorporated areas of Limestone County the accumulation and storage of junk, inoperable motor vehicles, and other litter, and the operation of junkyards, any of which do not conform to the requirements of this act, are a public nuisance.

Section 2. (a) It is unlawful and constitutes a public nuisance for the owner or other person in charge or in control of a building, lot, junkyard, or other premises, within the unincorporated territory of Limestone County to fail to keep the lot, junkyard, or premises clean and free from garbage, refuse, litter, junk, debris, salvaged materials, household furniture, trash, used motor vehicle tires, inoperable motor vehicles, kitchen and other household appliances, rags, paper, cardboard, and other nondecorative matter, including any materials within which water may accumulate or which may shelter or encourage the growth of insects or rodents, or materials which generate obnoxious odors, or which offend the esthetics of the community, and which thereby cause a substantial diminution in the value of other property nearby or which threaten the health and safety of any citizen.

(b) This act shall not apply to any company, corporation, or business currently operating, whose primary purpose or business is to burn or incinerate wood materials, salvage materials, building refuse, waste products, timber stumps, trees, or brush and other debris that results from clearing land, cutting timber, or refurbishing or constructing, buildings. This act shall not apply to farm buildings or farm equipment and farm materials stored around farm buildings on a farm.

Section 3. (a) Except as provided in subsection (b) of this section, it is unlawful and constitutes a public nuisance for any person to park, leave, or store upon any place or premises in public view within the unincorporated territory of Limestone County more than one motor vehicle which is not currently and validly registered and tagged as required by state law.

(b) Subsection (a) does not apply to a licensed business if the parking, leaving, or storing of the motor vehicle is reasonably necessary in the operation of the business, directly or indirectly.

Section 4. (a) No person shall establish, operate, or maintain a junkyard containing any items listed in Section 1 of this act, but not limited to those items, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any highway, without obtaining a county license to do so from the county commission through the county license commissioner or other like official. No license shall be granted except for those junkyards which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the highway. The operation of an

unlicensed junkyard required to be licensed pursuant to this section constitutes a public nuisance.

(b) The county commission shall adopt regulations and requirements for issuing licenses for the operation of junkyards within the limits defined in this act, and may revoke the licenses at any time a junkyard fails to conform to the requirements of this act, and shall charge a license fee of not more than one thousand dollars (\$1,000) nor less than one hundred dollars (\$100) payable each fiscal year. This license fee shall be in addition to the license fee required under Section 23-1-244, Code of Alabama 1975. All licenses issued under this act shall expire on September 30 following the date of issue. Licenses may be renewed from year to year upon payment of the fee. Proceeds from the fees shall be deposited in the general fund of the county.

Section 5. (a) This act shall be enforced by the Limestone County Commission.

(b) The Limestone County Commission may commence a civil action in the name of the Limestone County Commission in the Circuit Court of Limestone County, Alabama, to abate or enjoin any public nuisances declared by this act. In any action pursuant to this subsection, the Circuit Court of Limestone County, Alabama, is authorized to assess all costs of abating the public nuisance declared by this act, including attorney's fees, court costs, and all other expenses of litigation, against the person creating or maintaining the public nuisance.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:40 A.M.

Act No. 94-672

H. 490 – Reps. Hilliard, Newton (D), Spratt,
McClain, Rogers (J), Hall (L)

AN ACT

To amend Section 11-52-3 of the Code of Alabama 1975, relating to planning commission in Class 1 municipalities, to provide further for the compensation for meetings attended by the appointed members of the planning commission of Class 1 municipalities, who are neither elected officials nor employees of the municipality; and to provide an effective date of the act.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-52-3 of the Code of Alabama 1975, is amended to read as follows:

“§11-52-3.

“(a) The commission shall consist of nine members: The mayor, or his or her designee, one of the administrative officials of the municipality selected by the mayor, a member of the council to be selected by it as a member ex officio and six persons who shall be appointed by the mayor, if the mayor is an elective officer, otherwise by the officer as the council may in the ordinance creating the commission designate as the appointing power; provided, that in any Class 1 municipality, the commission shall consist of 16 members: The mayor, one of the administrative officials of the municipality selected by the mayor, two members of the council to be selected by it as members ex officio, and 12 persons who shall be selected by the council. In the event the mayor designates a person to sit in his or her place on the municipal planning commission, the person so appointed shall serve during the term of the mayor, unless the original appointment shall be limited to a term certain of not less than 12 months at time of appointment.

“In addition to regular members, the mayor and each of the council members of Class 1 municipalities serving on the commission may each appoint, from the administrative staff of the mayor and council exclusively, a supernumerary member who shall be authorized to be counted for the purpose of determining a quorum, and, while serving, to act with all of the power and authority of a regular member whenever such municipal official is not personally in attendance.

“In addition to the regular members, in all cities having populations of not less than 175,000 nor more than 275,000, two supernumerary members shall be appointed to serve on the board at the call of the chair only in the absence of regular members, and while so serving, they shall have and exercise the power and authority of regular members.

“(b) All members of the commission shall serve without compensation, and the appointed members shall hold no other municipal office, except, that one of the appointed members may be a member of the zoning board of adjustment or appeals, except in all cities having populations of not less than 175,000 nor more than 275,000, according to the most recent federal decennial census, wherein no member of the commission may be a member of the zoning board of adjustment or appeals and wherein all members of the commission shall be bona fide residents and qualified electors of such cities, except that the 12 appointed members of any commission elected by the council in Class 1 municipalities, under subsection (a) of this section, upon adoption of a resolution by the city council approving the act adding this clause, shall be paid twenty-five dollars (\$25) per meeting for each meeting of the commission attended by the members. No member shall be paid more than fifty dollars (\$50) in any one month, and any appointed member who is an elected official or an employee of the municipality shall not be eligible to receive the compensation.

"(c) The terms of ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor selecting the member.

"The term of each appointed member shall be six years or until the successor takes office, except that the respective terms of five of the members first appointed shall be one, two, three, four, and five years, provided, that in any city having a 16 member commission as provided in subsection (a) of this section, the respective terms of five pairs of the members first appointed by council shall be one, two, three, four, and five years, and provided further, that in all cities having populations of not less than 175,000 nor more than 275,000, the term of each appointed member of the commission shall be for three years.

"(d) Members other than the member selected by the council may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty or malfeasance in office, provided, that in any city having a 16 member commission, as provided in subsection (a) of this section, members may, after a public hearing, be removed by the council for any of the above reasons or for continued failure to attend meetings. The council may for like cause remove the member or members selected by it. The mayor or council, as the case may be, shall file a written statement of reasons for such removal.

"(e) Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of members selected or appointed by him or her, by the council in the case of the member, or other members selected by it and by the appointing power designated by the council in municipalities in which the mayor is not an elective officer."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 2, 1994

Time: 8:41 A.M.

Act No. 94-673

S. 125 – Senator Horn

AN ACT

To create an Education Technology Fund within the State Treasury and to make an appropriation to the Education Technology Fund for six pilot programs to augment the science curriculum for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created within the State Treasury a fund, designated the Education Technology Fund, hereinafter referred to as the Fund. The State Superintendent of Education shall authorize the expenditure of monies within the Fund, upon the approval of the State Board of Education. Receipts to the Fund shall include, but shall not be limited to the following: 1) appropriations made at the discretion of the Legislature; 2) grant funds; 3) donations and contributions; 4) federal funds; and 5) appropriations made by local governments. At the end of any fiscal year, unexpended monies remaining in the Fund shall not revert but shall remain available for appropriation. The expenditure of monies in the Fund shall be subject to appropriation by the Legislature and subject to the provisions of the Budget Management Act, Sections 41-19-1 through 41-19-12, Code of Alabama 1975. The State Board of Education shall ensure that expenditures made from the Education Technology Fund shall be based on educational need and shall be made in an equitable manner.

Section 2. There is hereby appropriated from the Alabama Special Educational Trust Fund to the Education Technology Fund, the sum of \$1,970,000 for the fiscal year ending September 30, 1994, to be expended for pilot programs to augment the science curriculum in school year 1994-95. Such pilot programs shall be six Science In Motion networks, consisting of one fully-equipped chemistry van and one fully-equipped physics or biology van for each of the six networks.

Section 3. It is the intent of the Legislature that the State Board of Education ensure that there shall be at least one Science In Motion network that serves schools in the Blackbelt counties and one network that serves a significant number of inner city schools. It is further the intent of the Legislature that the appropriation made in Section 2 of this act include funding for the necessary certificated personnel, twelve vans with modifications, the scientific equipment, supplies, operating expenses, in-service training, travel necessary for the implementation of the pilot programs and record-keeping and documentation related to the pilot programs. The State Superintendent of Education shall also initiate the preparation of requests for grant funds from governmental, corporate or private sources for the Science In Motion program in this state.

Section 4. The State Board of Education may adopt rules and regulations necessary for the implementation of this act.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:00 A.M.

Act No. 94-674

H. 201 – Rep. Harper

AN ACT

To make an appropriation to the Space Science Exhibit Commission for the fiscal year ending September 30, 1995, for educational purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Space Science Exhibit Commission for the Special Services Program from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1995 the sum of Four hundred forty-eight thousand eight hundred sixty-four dollars (\$448,864).

Section 2. The above appropriation is for educational purposes which shall include but shall not be limited to the operation of the Space Camp Program and educating the general public in the various aspects of space exploration through the display of space hardware and other visual exhibits and training in space exploration.

Section 3. The provisions of this Act are severable. If any section, paragraph, sentence, clause, provision or portion of this Act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, such holding shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made.

Section 4. This Act shall become effective October 1, 1994.

Approved May 3, 1994

Time: 10:01 A.M.

Act No. 94-675

H. 931 – Rep. Black (L)

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Gainesville in Sumter County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Gainesville in Sumter County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all types of the following territory:

Beginning at the point where the South side of the Tombigbee River intersects the west side of Section 2, township 21 North, Range 2 West, then run South along section line to Section 11, continue South along section line to Section 14, continue south along Section 14 for 1300', thence turn and run east to County Highway 21, which is also the East side of Section 14, thence turn run North to Section 11, continue North along section line for 1400', then turn and run East 400' then turn and run North 200', to dirt road, continue North along West side of dirt road 100', to a point, then turn and run West 650' to section line, thence run North along section line to Section 2, continue North to South side of Tombigbee river, then West along South side of river to point of beginning.

Includes all Section 2 south of river, all section 11, the N 1/2 of the N 1/2 Section 14, the W 1/2 of the NW 1/4 of the N 1/2 of the S 1/2 Section 12, all in Township 21 North Range 2 West.

Section 2. In accordance with Section 11-42-6 (b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Gainesville is on file in the office of the Judge of Probate in Sumter County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:02 A.M.

Act No. 94-676

H. 788 – Rep. Harvey

AN ACT

Relating to single and multi-family dwellings for low or moderate income persons or families which may be provided by a governing body of a municipality or county; to alter the definition of the term low or moderate income person or family by amending Section 11-96A-2, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-96A-2, Code of Alabama 1975, is amended to read as follows:

“§11-96A-2.

“For purposes of this chapter, a low or moderate income person or family shall mean those persons or families with incomes that do not exceed the level of 100 percent of the median income for the applicable area, as provided for under existing regulations promulgated by the United States Department of Housing and Urban Development currently contained within the provisions of 24 Code of Federal Regulations at Parts 813 and 913, and such successor federal laws and regulations as may exist from time to time. If no such regulations or successor regulations exist, median income will be determined by each municipality taking into account all relevant factors.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:03 A.M.

Act No. 94-677

H. 872 – Rep. Perdue

AN ACT

To provide procedures by which class 1 municipalities may establish one or more Self-Help Business Improvement Districts to provide supplemental services financed by special assessments levied on the owners of the real property located within the geographical area of the district; to provide for the management, operation, powers, and duties of the districts, including the creation of nonprofit corporations to manage the districts; to provide certain required provisions in the articles of incorporation of district management corporations; to provide for dissolution of a district and withdrawal of a nonprofit corporation's designation as a district management corporation; to provide that district management corporations shall have no power of eminent domain; and to provide certain tax exemptions for district management corporations.

Be It Enacted by the Legislature of Alabama:

Section 1. Legislative Findings.

(a) The Legislature finds:

(1) That patterns of urban development have had a substantial adverse impact upon downtown and community business districts vital to the economies of class 1 municipalities in Alabama.

(2) That the public interest would be advanced by authorizing the creation of Self-Help Business Improvement Districts and district

management corporations to assist class 1 municipalities in promoting economic growth in business districts.

(3) That district management corporations representing real property owners within Self-Help Business Improvement Districts can assist class 1 municipalities in promoting economic growth and employment within business districts.

(4) That class 1 municipalities should be authorized to create Self-Help Business Improvement Districts and designate district management corporations to execute self-help programs to improve the local business climates.

(b) The Legislature further finds that it is the public policy of the State of Alabama to permit the governing bodies of class 1 municipalities to protect the public welfare and the interests of the public in the safe and effective movement of persons, encourage healthy economic development, promote jobs, and preserve and enhance the function and appearance of business districts located within a class 1 municipality through the adoption of an ordinance of the type authorized in this act.

Section 2. Definitions.

As used in this act, the following words and phrases shall have the following meanings:

(1) **MUNICIPALITY.** Any class 1 municipality located in the State of Alabama.

(2) **DISTRICT MANAGEMENT CORPORATION.** An entity created by incorporation under The Alabama Nonprofit Corporation Act (Chapter 3A of Title 10, Code of Alabama 1975), and designated by ordinance to manage a Self-Help Business Improvement District.

(3) **SELF-HELP BUSINESS IMPROVEMENT DISTRICT.** An area within a Municipality designated by ordinance as an area in which a special assessment may be levied on the owners of the real property located within the geographical area of the district for the purposes of providing supplemental services within the district and promoting the economic and general welfare of the district.

Section 3. Development and Maintenance Of Self-Help Business Improvement Districts.

A Municipality may, through ordinance, provide for the creation and maintenance of one or more Self-Help Business Improvement Districts pursuant to this act. This act is intended as the exclusive procedure through which a Municipality may create and maintain a Self-Help Business Improvement District.

Section 4. Findings Required For A Public Hearing On The Adoption Of A Self-Help Business Improvement District Ordinance.

A public hearing on the adoption of a Self-Help Business Improvement District Ordinance may be called only if the governing body of a Municipality finds that:

(a) A request for the creation of a Self-Help Business Improvement District which satisfies the requirements of Section 5 of this act has been filed with the clerk of the Municipality.

(b) The area described in the Self-Help Business Improvement District Plan would benefit from being designated as a Self-Help Business Improvement District.

(c) The Self-Help Business Improvement District Plan required by Section 5. of this act includes a designated district management corporation to provide administrative and other services to benefit businesses, employees, residents, and consumers in the Self-Help Business Improvement District.

(d) The Self-Help Business Improvement District Plan includes a special assessment which will be levied by the district management corporation on the owners of the real property located within the geographical area of the district to finance the supplemental services described in the Plan and that such special assessment is expected to produce revenue which is consistent with the annual budget adopted and approved as provided in this act.

(e) The copies of the Articles of Incorporation and By-Laws of the district management corporation satisfy the requirements of Section 9 of this act.

(f) It is in the best interests of the Municipality and the public to designate the geographical area described in the Plan as a Self-Help Business Improvement District and to designate a district management corporation to provide administrative and other services to the district.

(g) The existing level of publicly funded services provided by the Municipality in the geographical area of the proposed district has been documented in writing and certified by the mayor of the Municipality.

Section 5. Requirements Of A Request For The Creation Of A Self-Help Business Improvement District.

A request for the creation of a Self-Help Business Improvement District must contain the following:

(a) The signatures of a representative group of the owners of the real property located within the geographical area of the proposed district. The group must include the signatures of the owners

of real property which comprises at least two-thirds of the total fair market value of all real property located in the proposed district. Ownership of real property and the fair market value thereof shall be determined by the county property tax assessment records. When record title to real property is vested in a public corporation or authority under a bond financing plan provided for by statute, the beneficial user of the real property in which title may ultimately be vested by purchase shall be deemed the owner of such real property for purposes of this Act.

(b) An accurate description, whether by metes and bounds or by lot and block numbers or by street addresses, of the proposed district.

(c) A Self-Help Business Improvement District Plan that shall include:

(1) a description of the supplemental services which will be provided in the district;

(2) a budget outlining the annual cost of the supplemental services described in (1) above;

(3) a description of the method which will be used to determine the amount of the special assessment which will be levied on the owners of the real property located within the geographical area of the district to finance the supplemental services described in (1) above;

(4) the number of years, not to exceed five (5) years, in which the special assessments described in (3) above will be levied; and

(5) copies of the Articles of Incorporation and By-Laws of the district management corporation designated by the Plan to provide administrative and other services to the district.

Section 6. Mailing of Proposed Ordinance and Notice of Hearing.

At least twenty (20) days prior to the date set for a public hearing on the proposed Self-Help Business Improvement District Plan, notice of the date, time and place of the hearing, with a description of the geographical area proposed to be included in the district, the proposed ordinance, and the Self-Help Business Improvement District Plan shall be mailed to all known owners of real property located within the geographical area proposed to be included in the district. Such notice shall be mailed to all known owners of such real property at the address listed in the county property tax assessment records. In addition, a copy of such notice shall be posted in at least three (3) places located within the geographical area proposed to be included in the district. A property

owner's failure to receive a copy of such notice shall not constitute grounds upon which such owner may contest the validity of a Self-Help Business Improvement District Ordinance.

Section 7. Review Of Self-Help Business Improvement District Plan And Adoption Of Ordinance.

The Municipality, upon review of the Self-Help Business Improvement District Plan submitted, may, after public hearing, adopt an ordinance to designate, establish, and maintain the area described in the Plan as a Self-Help Business Improvement District. The ordinance shall provide for an effective date which is sixty (60) days from the date of adoption of the ordinance by the Municipality and shall provide that, if the owners of real property which represent one-third (1/3) or more (by number) of all parcels of real property located within the geographical area of the district file written objections to the establishment of the district with the clerk of the Municipality, the provisions of such ordinance shall be null and void and no district shall be created. The ordinance shall designate the district management corporation provided for in the Plan as the district management corporation authorized to provide administrative and other services to the district and authorize the execution of a contract between the Municipality and such district management corporation setting out the services to be provided by the district and the Municipality. The contract shall provide that the Municipality shall continue the same level of services in the district as provided prior to the creation thereof.

Section 8. Costs of Supplemental Services.

A Self-Help Business Improvement District Ordinance shall provide that all costs of the supplemental services provided in a business improvement district will be financed through the levy of a special assessment on the owners of the real property located within the geographical area of the district and shall designate the method set forth in the Plan as the method which will be used to determine the amount of such special assessment in a manner which fairly and equitably distributes the burden of financing the supplemental services among the real property owners in the district. Such ordinance shall list and describe, by lot and block numbers and by street addresses, all real properties against which the special assessment will be made to fund such supplemental services. Such ordinance shall also provide that all real property located within the geographical area of the district which is (1) owned by an organization which is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, (2) single-family, owner-occupied residential property, or (3) held exclusively for lease or rental as a principal single-family or multi-family residence, shall be exempt from the special assessment imposed by the district

management corporation to finance the supplemental services provided in the business improvement district.

Section 9. Collection of Special Assessment.

A Self-Help Business Improvement District Ordinance shall provide that the special assessment levied on the owners of the real property located within the geographical area of the district shall be collected by the district management corporation. Such ordinance shall also provide that the amount of any outstanding special assessment levied on a parcel of real property, together with any accrued interest and penalties, shall constitute a lien on such property. The lien shall take precedence over all other liens, whether created prior or subsequent to the date of the special assessment, except a lien for (1) state, county, or municipal taxes, (2) a prior special assessment, or (3) a prior recorded mortgage, deed or trust, or similar security instrument. Other than foreclosures for (1) state, county, or municipal taxes, (2) a prior special assessment, or (3) a prior recorded mortgage, deed of trust, or similar security instrument, the lien for the special assessment shall not be defeated or postponed by any private or judicial sale, or by any mortgage, deed of trust or similar security instrument which is recorded subsequent to the date of final adoption by the Municipality of the Self-Help Business Improvement District Ordinance providing for the special assessment. No error in the proceedings of the governing body of the Municipality or of the board of directors of the district management corporation shall exempt any real property from such lien or from payment thereof.

Section 10. Amendment of Self-Help Business Improvement District Ordinance.

The Municipality may amend a Self-Help Business Improvement District Ordinance upon the written request of a **representative group of the owners** of the real property located within the geographical area of the district. Such request must specify the desired amendment (or amendments) which should be made by the Municipality to the Self-Help Business Improvement District Ordinance. Such request must also include the signatures of the owners of real property which comprises at least two-thirds of the total fair market value of all real property located in the proposed district, determined pursuant to the provisions of Section 5(a) of this act.

Section 11. District Management Corporation Limits, Powers, And Duties.

(a) District management corporations shall be incorporated under the Alabama Nonprofit Corporation Act (Chapter 3A of Title 10, Code of Alabama (1975)) and shall exercise their powers in a manner consistent with such Act.

(b) To qualify for designation by ordinance to manage a Self-Help Business Improvement District, the Articles of Incorporation of a proposed district management corporation must provide the following:

(1) That the property, business and affairs of the corporation shall be managed by a board of directors.

(2) The names and addresses of the initial members of the board of directors.

(3) That the initial members of the board shall be divided into three groups which are as equal in number as is possible, that such groups will serve for initial terms of one (1), two (2) and three (3) years respectively, and that all directors thereafter elected by the board of directors shall serve for a term of three (3) years.

(4) That the members of the board of directors elected after the expiration of the initial terms set forth in subsection (3) above will be elected by the existing members of the board of directors.

(5) That all members of the board of directors must own real property which is located in the geographical area of the district or be a designated representative of an owner of such property, and that in order to provide representation on the board of directors to the small business owners located within the geographical area of the district, at least one-third ($1/3$) of the members of the board of directors shall own or represent an owner of a tract of real property in the district with a fair market value which is in the lower one-third ($1/3$) of the fair market values of all real property in the district.

(6) That no funds received by the corporation from assessments on such property shall be expended except in accordance with the budget adopted or amended under the provisions of this act.

(7) That vacancies on the board of directors resulting from death, resignation, or removal, shall be filled by the remaining members of the board of directors of the district management corporation for the unexpired portion of the term.

(8) That at least once every six (6) months after designation, the corporation shall hold public meetings appropriately advertised in the district, at a place convenient to persons concerned with the operation of the district, and shall receive written suggestions from businesses in the district at any time.

(9) That municipal representatives designated by the mayor and by the governing body of the Municipality shall be authorized to attend and participate in regular and called meetings of the board of directors of the district management corporation, but shall not vote on any matters considered by directors.

(10) That no amendment to the articles of incorporation or any by-laws shall be effective unless approved by the board of directors of the district management corporation.

(11) That directors shall receive no compensation for service as directors, but shall be entitled to receive reimbursement for expenses actually incurred in the performance of their duties approved by the board.

(12) That upon dissolution, or upon any withdrawal of the designation as the district management corporation, all interests and title to funds held by or for the corporation, and all property of the corporation shall be transferred and assigned to (1) a successor district management corporation, or (2) if no such successor district management corporation exists, the Municipality for use in funding such programs as the board of directors of the district management corporation shall direct and designate.

(c) The district management corporation shall have all powers necessary to implement its purposes, including, but not limited to, the power to:

(1) Adopt by-laws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.

(2) Employ such persons as may be required, and fix and pay their compensation from funds available to the corporation;

(3) Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money;

(4) Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the corporation, including contracts with any person, firm, corporation, governmental agency or other entity;

(5) Administer and manage its own funds and accounts and pay its own obligations;

(6) Borrow money from private lenders for periods not to exceed 180 days and from governmental entities for that or longer periods;

(7) Enforce the conditions of any loan, grant, sale or lease made by the corporation;

(8) Provide security, sanitation and other services to the district supplemental to those provided normally by the Municipality;

(9) Publicize the district and the businesses included within the district boundaries;

- (10) Recruit new businesses to fill vacancies in the district;
- (11) Organize special events in the district;
- (12) Provide special parking arrangements for the district;
- (13) Participate in other governmental programs for which qualified included in its approved plan; and
- (14) Undertake such other activities or initiatives within the district as the board of directors of the district management corporation deems appropriate.

Section 12. Annual Budget of the District Management Corporation.

(a) The officers of the district management corporation shall submit a detailed annual budget for approval by its board of directors including proposed expenditures and proposed sources of funding, including voluntary donations, and which explains how the budget contributes to goals and objectives for the business improvement district.

(b) The budget shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the board of directors.

The procedure shall be as follows:

- (1) Introduction and preliminary approval;
- (2) Public advertising;
- (3) Public hearing;
- (4) Amendments and public hearings, if required; and
- (5) Adoption.

(c) No budget shall be adopted until a public hearing has been held thereon and all persons having an interest therein shall have been given an opportunity to present objections.

(d) The board of directors may amend the budget during or after the public hearing.

No amendment by the board of directors shall be effective until taxpayers and all persons having an interest therein shall have been granted a public hearing thereon, if the amendment shall:

- (1) Add a new item in an amount in excess of 10% of the total amount as stated in the approved budget; or
- (2) Increase or decrease any item within such budget by more than 10% of the amount stated therein for such item, or

(3) Increase the amount to be raised by special assessment by more than 10% of the total special assessment revenues stated in the approved budget.

Section 13. Retention of Municipal Police Powers.

Notwithstanding the improvement of any street or sidewalk incident to a Self-Help Business Improvement District, a Municipality and its governing body shall retain its police powers and other rights and powers relating to the street or part thereof constituting or included in a Self-Help Business Improvement District, and no such action shall be interpreted or construed to be a vacation, in whole or in part, of any municipal street or part thereof, it being intended that the establishment of a Self-Help Business Improvement District pursuant to this act is a matter of a regulation only.

Section 14. Eminent Domain Utilization.

No Self-Help Business Improvement District or district management corporation shall have eminent domain powers. All such procedures incidental to the development and maintenance of a Self-Help Business Improvement District pursuant to this act, including compensation for land acquisition and legal challenges and appeals not specifically prescribed hereunder, shall be taken in accordance with the applicable provisions of Chapter 1A of Title 18 of the Code of Alabama (1975).

Section 15. Furniture, Structure of Facility Not Deemed Nuisance.

Any movable furniture, structure, facility or appurtenance or activity located or permitted in connection with a Self-Help Business Improvement District shall not, by reason of such location or use, be deemed a nuisance or unlawful obstruction or condition, notwithstanding any rule or regulation or principle of negligence law pertaining to the use of public streets and highways and neither the Municipality nor any user acting under permit shall be liable for any injury to person or property, unless such furniture, structure, facility or use shall be negligently constructed, maintained or operated.

Section 16. District Management Corporation Contracts.

The Municipality may, by ordinance, authorize the district management corporation to contract work to be done on any street or streets, or on other municipal property, included in the Self-Help Business Improvement District. In the event that the Municipality elects to contract with the district management corporation with respect to such work, the district management corporation shall, solely with respect to such contract, be subject to the statutory rules and regulations applicable to the letting of contracts by a Municipality. Further, the plans and specifications of

any construction work to be contracted shall be approved by the municipal engineer prior to initiation of any actions for the awarding of a contract under this act.

Section 17. Operation in Other Designated Project Areas.

This act shall not prohibit a Municipality from including a Self-Help Business Improvement District within the bounds of any area, district, or zone including enterprise zones established pursuant to law which has as one of its purposes the encouragement of the construction of improvements or the rehabilitation of properties located within those boundaries, or the inducement of private enterprises to locate within those boundaries, whether by tax credits, exemptions, or abatements, or by special public financing arrangements.

Section 18. Annual Reports And Audits.

(a) Within ninety (90) days after the close of each fiscal year, the district management corporation shall make an annual report of its activities for the preceding fiscal year to the governing body of the Municipality.

(b) Within ninety (90) days after the close of each fiscal year, the district management corporation shall cause an annual audit of its books, accounts, and financial transactions to be made and filed with the governing body of the Municipality and for that purpose the corporation shall employ a certified public accountant. The annual audit shall be completed and filed with the governing body within four months after the close of the fiscal year of the corporation and a certified duplicate copy of the audit shall be filed with the mayor and the finance director or other financial control officer of the Municipality.

Section 19. Sunset Provision.

(a) Within sixty (60) days after the adoption and approval of the fifth annual budget for any Self-Help Business Improvement District, the board of directors of the district management corporation shall set a hearing to determine whether the district should be continued, modified, or terminated. At least twenty (20) days before the hearing, notice of the date, place and time of such hearing shall be posted in at least three (3) places within the district and mailed to each real property owner who paid assessments to the district during the previous year as certified by an officer of the district management corporation collecting such assessments.

(b) Whenever a petition is presented to the board of directors of the district management corporation signed by real property owners in the district which paid twenty-five percent (25%) or more of the assessments paid in the district during the last fiscal year for which assessments were collected, the board of directors of the district management corporation shall set a public hearing as provided for in (a) above.

(c) After a hearing, the board of directors of the district management corporation shall adopt a resolution approving the continuation of the district, modifying the district or the services rendered thereby, or the assessments levied, or terminating the district as of the end of the fiscal year during which the hearing is held.

(d) If it should be demonstrated at any hearing held under this section that the owners of real property which either (1) pay one-third ($1/3$) or more of the assessments levied in the district during the last fiscal year for which assessments were collected, or (2) represent one-third ($1/3$) or more (by number) of all parcels of real property located within the geographical area of the district object to the continuation of the district, the district shall be terminated as of the end of the fiscal year next following the hearing.

Section 20. Tax Exemption.

A nonprofit corporation designated as a district management corporation under this act shall be exempt from the state corporate income tax, corporate franchise tax and permit fee and from state, county, and municipal sales, use, license, gross receipts and ad valorem taxes.

Section 21. Severability.

The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 22. Effective Date. This act shall become effective immediately upon its approval by the Governor or its otherwise becoming a law.

Approved May 3, 1994

Time: 10:30 A.M.

Act No. 94-678

H. 213 – Rep. Harper

AN ACT

To make an appropriation to the Project DARE and the DON'T - Madison County drug education programs for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1995, the sum of \$724,339 from the Alabama Special Educational Trust Fund to be used for the support and maintenance of the following drug education programs:

(a) Project DARE - Huntsville	300,346
(b) Project DARE - Birmingham	162,673
(c) Project DARE - Bessemer	26,320
(d) Project DARE - Vestavia Hills	15,000
(e) Project DARE - Hoover	15,000
(f) DON'T - Madison County	75,000
(g) Project DARE - Northeast Alabama	30,000
(h) Project DARE - Jefferson County	100,000

Section 2. The above appropriated funds are to be expended for instruction and materials related to drug education in the public schools.

Section 3. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 5. This act shall become effective on October 1, 1994.

Approved May 3, 1994

Time: 10:05 A.M.

Act No. 94-679

H. 115 – Rep. Drake

AN ACT

To create a new district judgeship for Cullman County.

Be It Enacted by the Legislature of Alabama:

Section 1. There is created an additional district judgeship for Cullman County, which shall be designated judgeship Number 2. The first judge of the additional district judgeship Number 2 shall be elected at the general election held in November 1996 and shall serve a full term of office beginning on the first Monday following the second Tuesday in January after the general election. Every six years thereafter, a judge shall be elected at the general election to fill the judgeship.

Section 2. The judge elected as provided in Section 1 of this act shall have and shall exercise all the jurisdiction, power, right, and authority; shall possess all of the qualifications; shall perform all of the duties required; and shall be subject to all of the pains and penalties of the office to which other district judges are subject.

Section 3. The compensation of the judge shall be the same as and paid under the same circumstances as that of the other district judge in Cullman County, including the payment of a county supplement or expense allowance.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective October 1, 1995.

Approved May 3, 1994

Time: 10:06 A.M.

Act No. 94-680

H. 305 – Rep. Hooper

AN ACT

To authorize the director of finance to establish by October 1, 1994, a state employee injury compensation program and amend Sections 41-9-62 and 41-9-68, Code of Alabama 1975, which currently make the board of adjustment the exclusive remedy for state employees who are injured while at work.

Be It Enacted by the Legislature of Alabama:

Section 1. The director of finance shall have the authority to implement a program to provide compensation for employees of the state and its agencies, departments, boards or commissions who suffer personal injury as a result of accidents arising out of and in the course of their state employment, under such terms and conditions as the director of finance shall determine. The said program will be administered by the Division of Risk Management of the Department of Finance, and will take effect on October 1, 1994.

Section 2. The costs of the program and its administration shall be paid from the funds appropriated for the operation of the several state departments, agencies, boards and commissions, to which the director of finance may apportion the costs. Medical costs may be managed by cooperative agreement with the state employees' insurance board.

Section 3. There is hereby established a separate special trust fund in the state treasury to be known as the employee injury

compensation trust fund. All receipts collected under the provisions of this Act shall be deposited in this fund and used only to carry out the provisions of this Act. Any funds unspent and unencumbered at the end of each fiscal year shall not revert to any other fund in the state treasury but shall be carried forward to the succeeding fiscal year. All funds in the employee injury compensation trust fund may be invested and reinvested by the director of finance, through the Division of Risk Management, under the same terms as apply to the State Insurance Fund. There is hereby appropriated from the employee injury compensation trust fund such amounts as are necessary to pay claims, benefits, administrative costs, and all other costs of the program.

Section 4. Except as provided herein, the program implemented pursuant to this Act is not governed by or subject to the provisions of Act 92-537, or its successor, otherwise known as the Alabama Worker's Compensation Law or any similar law. Payments made to physicians licensed to practice medicine for services to injured employees shall be in accordance with the schedule of maximum fees as established under Section 25-5-313, or as otherwise permitted under Section 25-5-314. All undisputed medical reimbursements or payments shall be made within twenty five (25) working days of receipt of claims in the form specified in Section 25-5-3. There shall be added to any undisputed medical invoice which is not paid within twenty five (25) working days an amount equal to ten (10) percent of the unpaid balance. Any regulation, policy, or program directive for the conduct of utilization review, bill screenings, and medical necessity determinations related to services provided by physicians licensed to practice medicine shall comply with the regulations promulgated by the Workers' Compensation Medical Services Board under the provisions of Section 25-5-312(1). Any rules, regulations, or guidelines promulgated by the director of finance with respect to the establishment and operation of the program contemplated by this Act shall be subject to the Administrative Procedures Act, and a final determination as to benefits payable under the said program shall be subject to review by the circuit court in Montgomery County in the manner prescribed by the Administrative Procedure Act.

Section 5. Section 41-9-62, Code of Alabama 1975, is hereby amended to read as follows:

"Section 41-9-62.

"(a) The board of adjustment shall have the power and jurisdiction and it shall be its duty to hear and consider:

"(1) All claims for damages to the person or property growing out of any injury done to either the person or property by the state of Alabama or any of its agencies, commissions, boards, institutions or departments, with the exception of claims by employees of the state for personal injury or death arising out of the course of

employment with the state of Alabama, where such employees are covered by an employee injury compensation program;

“(2) All claims for personal injuries to or the death of any convict, and all claims for personal injuries to or the death of any employee of a city or county board of education, or college or university, arising out of the course of the employee’s employment and where the employee is not covered by a worker’s compensation program;

(3) All claims of members of the public at large or of officers of the law who are not employees of the State arising out of injuries sustained while attempting to recapture escaped convicts, which convicts have escaped after they have been placed in the actual custody of the department of corrections;

“(4) All claims against the state of Alabama or any of its agencies, commissions, boards, institutions or departments arising out of any contract, express or implied, to which the state of Alabama or any of its agencies, commissions, boards, institutions or departments are parties, where there is claimed a legal or moral obligation resting on the state;

“(5) All claims for money overpaid on obligations to the state of Alabama or any of its agencies, commissions, boards, institutions or departments;

“(6) All claims for money voluntarily paid to the state of Alabama or any of its agencies, commissions, boards, institutions or departments, where no legal liability existed to make such payment;

“(7) All claims for underpayment by the state of Alabama or any of its agencies, commissions, boards, institutions or departments to parties having dealings with the state of Alabama or any of its agencies, commissions, boards, institutions or departments;

“(8) All claims for money or property alleged to have wrongfully escheated to the state of Alabama, and

“(9) All claims for injury or death of any student duly enrolled in any of the public schools of this state resulting from an accident sustained while being transported to or from school or in connection with any school activity in any bus or any motor vehicle operated directly by any school board or agency of the state or through contract with another. Awards payable to any such student for injuries sustained in such accident shall be equal to the maximum benefits payable to employees as provided in chapter 5 of Title 25 for injuries, loss of time or medical attendance; and, where death results from such injuries, the amount payable to the parent or parents of such student shall be equal to the maximum amount payable to a totally dependent parent or parents as provided by chapter 5 of Title 25; provided, however, that no payment for death of such student shall be made to any parent or parents unless they were actually supporting such student at the time of the accident causing the injuries and death. The fact that such student

has no earning capacity or earns an average wage of less than the amount which would entitle him to maximum benefits under chapter 5 of Title 25 shall in no way limit an award to him, his parent or parents. Awards for such injuries or death shall constitute a prior and preferred claim against moneys appropriated for the minimum program fund, and no part of any such award shall be charged against any funds allotted to the school board of the county or city or the district board of education of the independent school district where said accident occurred. If it should appear to the board of adjustment after investigation that the accident causing the injury or death of such student was caused under circumstances also creating a legal liability for damages on the part of any party and it should further appear to the board of adjustment that claim may be made against such party by such student, his parent or legal representative to recover damages, then, in that event, any payment otherwise due under this subdivision may be withheld by the board of adjustment pending final settlement of such claim and, if said student or his parent or legal representative recovers damages against said party, any sum so recovered and collected may be offset against payments due under this subdivision, and the balance due, if any, shall thereafter be promptly paid by the board of adjustment. The provisions of this subdivision shall apply to all claims relating to injuries to school children filed with said board within one year of the date of an accident. Minor students shall have, for the purpose of this subdivision, the same power to contract, make elections of remedy, make settlements and receive compensation as adults would have subject to the power of the board of adjustment in its discretion at any time to require the appointment of a guardian to receive moneys or awards and payments of awards made to such minor students or their guardian shall exclude any further compensation either to the minor students or to their parents for loss of service or otherwise.

“(b) The jurisdiction of the board of adjustment is specifically limited to the consideration of the claims enumerated in subsection (a) of this section and no others; provided, that nothing contained in this division shall confer upon the board of adjustment any jurisdiction now conferred by law upon the state board of compromise provided for in sections 41-1-3 and 41-1-4, and nothing contained in this division shall be construed to confer jurisdiction upon the board of adjustment to settle or adjust any matter or claim of which the courts of this state have or had jurisdiction; provided further, that the board of adjustment shall have no jurisdiction over claims growing out of forfeitures or of contracts with any state agency, commission, board, institution or department where, by law or contract, said state agency, commission, board, institution or department is made the final arbiter of any disagreement growing out of forfeitures or of contracts of said state agency, commission, board, institution or department, and, particularly, the

board of adjustment shall have no jurisdiction of disagreements arising out of contracts entered into by the highway department.

“(c) Employees of municipalities and counties are not to be considered employees of the state of Alabama or of any of its agencies, commissions, boards, institutions or departments within the jurisdiction of this board and within the meaning of the word “employee” as used in this section.”

Section 6. Section 41-9-68, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-9-68.

“(a) When claims are properly prepared and presented to the board of adjustment and, after ascertaining the facts in the case, it is directed to determine the amount of the injury, death or disability or other injury or damage arising from contract or business and to fix the damages, using as its guide, when applicable, the ordinary rules of negligence and worker’s compensation laid down by the courts and the moral obligation of the state of Alabama, and to award and find the person entitled to payment and the amount, if any, which should be paid and any other facts necessary for a proper adjustment of claims. The ordinary rules of negligence as to liability are to be followed in claims by parties not employees of the state of Alabama or any of its agencies, commissions, boards, institutions or departments. The rules of chapter 5 of Title 25 as to liability are to be followed in claims for the injury or death of convicts, in claims for employment related injury or death of any employee of a city or county board of education, college or university, and in claims for injury or death of any employee of the state of Alabama arising out of employment with the State where the said employee is not covered by an employee injury compensation program.

“(b) Whenever the provisions of this division authorize ascertainment of the amount of damages and provide for payment of the judgment, finding or award of the board of adjustment, they shall be construed to include also claims arising from contract or business dealings as well as for personal injury, property damage, death and disability.”

Section 7. The amendments hereinabove made to Section 41-9-62 and Section 41-9-68, Code of Alabama 1975, shall not become effective upon this Act’s becoming law, but will become effective on October 1, 1994.

Section 8. This Act does not affect or repeal pre-retirement death benefits provided by the retirement systems or benefits provided by Sections 36-30-1 through 36-30-23, Code of Alabama 1975.

Section 9. Neither this Act nor any part thereof shall be construed as a waiver by the state of its sovereign immunity under the Constitution of Alabama 1901.

Section 10. The program established by the director of finance pursuant to the provisions of this Act shall not apply to the State Docks Department, nor to any educational institution, nor to any city or county board of education.

Section 11. If any section or provision of this Act is declared unconstitutional, it shall not affect the remaining sections or provisions.

Section 12. All laws and parts of laws in conflict with this Act are hereby repealed.

Section 13. This Act shall be effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:07 A.M.

Act No. 94-681

H. 816 – Rep. Carter

AN ACT

To amend Section 16-8-12, Code of Alabama 1975, relating to the vesting of legal title to school property in the county board of education, to provide that a county board of education may convey school property to a volunteer fire department in the county.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-8-12, Code of Alabama 1975, is amended to read as follows:

“§16-8-12.

“(a) All the property, estate, effects, money, funds, claims, and donations now or hereafter vested by law in the public school authorities of any county for the benefit of the public schools of any county are hereby transferred and vested in the county board of education, and their successors in office. Real and personal estate granted, conveyed, devised, or bequeathed for the use of any particular county, school district, or public school shall be held in trust by the county board of education for the benefit of any such county school district or school.

“(b) A county board of education may convey property to a volunteer fire department in the county.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:10 A.M.

Act No. 94-682

H. 200 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1995, the sum of \$2,726,269 out of the funds in the Alabama Special Educational Trust Fund to be used for the support and maintenance of the Special Schools for Special Education and to be distributed by the State Board of Education as follows:

- (a) Butler Activity and Training Center
for the Mentally Retarded in Greenville27,151
- (b) Hope Haven School in Colbert County36,201
- (c) Montgomery Institute of Neurological
Development31,676
- (d) Marion Bankhead Grant Center61,000
- (e) Houston County Board of Education for
the Vaughn-Blumberg Center for the
Developmentally Disabled54,302
- (f) Alice Pigman School113,129
- (g) Achievement Center, Opelika10,000
- (h) Merle Wallace Purvis Center75,000
- (i) McGraw Activity Center160,000
- (j) Dallas County Day Care and Training Center44,302
- (k) Brierfield Learning Center, Bibb County13,200
- (l) Calhoun County Community - "EDUCATION
PAR EXCELLENCE"110,503
- (m) North Talladega County Association for
Retarded Citizens, Inc.27,151
- (n) South Talladega County Association for
Retarded Citizens, Inc.27,151
- (o) Epic School, Birmingham35,200
- (p) ECHO FOUNDATION50,000

(q)	Vivian B. Adams School	257,595
(r)	McInnis School of Montgomery	397,309
(s)	Twenty First Century Youth Leadership Training Project	50,000
(t)	Alan Cott School	93,671
(u)	Children's Hands-On Museum in Tuscaloosa	140,503
(v)	Madison County Opportunities Center	45,252
(w)	Hope Project, formerly the Madison Park Hope Center	57,443
(x)	Dee Day School - Cherokee County	27,151
(y)	McKinney Learning Center	27,151
(z)	Jackson-DeKalb County Special School for the Retarded at Northeast Junior College	60,000
(aa)	Valley Haven School	57,581
(bb)	Russellville City School for Multi-Handicapped Children	36,201
(cc)	North Alabama Center for Educational Excellence, formerly North Alabama Education Opportunities Center	4,525
(dd)	Randolph County Learning Center	21,721
(ee)	Quest for Excellence	100,000
(ff)	Louise Smith Development Center	20,000
(gg)	Jackson County ARC Achievement Center	50,000
(hh)	Mobile ARC	87,000
(ii)	Lee Scan - of Lee County	15,200
(jj)	Governor's School-Samford University.....	25,000
(kk)	Cullman County Center for the Developmentally Disabled	150,000
(ll)	ARC of Blount County	25,000
(mm)	Clark Smeltzer Training Center of Gadsden	25,000
(nn)	Adam Bishop Center at Northwest Alabama Child Care Services	27,000
(oo)	Southern Normal School	50,000

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 4. This act shall become effective on October 1, 1994.

Approved May 3, 1994

Time: 10:11 A.M.

Act No. 94-683

H. 239 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Cattlemen's Association for the Children's Museum and to the Wiregrass Museum of Art to be used for educational purposes for the fiscal year ending September 30, 1995, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1995, there is hereby appropriated the sum of \$500,000 from the Alabama Special Educational Trust Fund, to the Alabama Cattlemen's Association for the Children's Museum and \$185,000 from the Alabama Special Educational Trust Fund to the Wiregrass Museum of Art for educational purposes.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1994-95, an operations plan for fiscal year 1994-95 and an audited financial statement for all operations during fiscal year 1992-93 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1994-95 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1994.

Approved May 3, 1994

Time: 10:12 A.M.

Act No. 94-684

H. 812 – Rep. Harper

AN ACT

To amend Section 3 and Section 4 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making supplemental appropriations to the Alabama Department of Economic and Community Affairs; to remove the condition that supplemental appropriations be made in anticipation of federal funds to be received from the Economic Stimulus Program of the President of the United States for the State Community Development Block Grant Program; and to repeal Section 6 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making the supplemental appropriations contingent upon receipt of the federal notice of funding from the Department of Housing and Urban Development for the Economic Stimulus Program.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 93-190, H. 246 of Code of Alabama 1975, is amended to read as follows:

“Section 3. In addition to all other appropriations made to the Alabama Department of Economic and Community Affairs, there is appropriated to the department from the State General Fund the sum of \$50,000 for the fiscal year ending September 30, 1993 and the sum of \$794,321 for the fiscal year ending September 30, 1994. Of the above appropriation, \$165,000 shall be expended for a statewide emergency warning system.”

Section 2. Section 4 of Act No. 93-190, H. 246 of the Code of Alabama 1975, is amended to read as follows:

“Section 4. The appropriations provided to the Alabama Department of Economic and Community Affairs in Section 3 of this act shall be expended for a planning program. In addition to the funds appropriated in Section 3, the department may also expend funds otherwise appropriated to it for the same purposes.”

Section 3. Section 6 of Act No. 93-190, H. 246 of the 1993 Regular Session (Acts 1993, p. 287), making the supplemental appropriations contingent upon receipt of the federal notice of funding from the Department of Housing and Urban Development for the Economic Stimulus Program is specifically repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:13 A.M.

Act No. 94-685

H. 91 – Rep. Freeman

AN ACT

To amend Section 40-25-18, Code of Alabama 1975, to allow county licensing and tax officials to levy an additional penalty on persons possessing untaxed tobacco products.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-25-18, Code of Alabama 1975, is amended to read as follows:

“40-25-18.

“(a) Persons failing to properly affix the required stamps to any cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, and snuff shall be required to pay, as part of the tax imposed hereunder, a penalty of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500). Each article or commodity not having proper stamps affixed thereto as herein required shall be deemed a separate offense. Any cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, and snuff in the place of business of any person required by this article to stamp the same shall be prima facie evidence that they are intended for sale. The Department of Revenue, upon good cause shown, may waive or remit any penalty or any part thereof provided for in this section. Any person, firm, corporation, club, or association of persons who has been found guilty of violating this article and who, after being punished by fine, penalty, assessment, or imprisonment, is found guilty of a second or subsequent violation of this article shall have their license, as provided in Sections 40-12-72 and 40-12-73, revoked by the department, and no further license or permit shall be issued or granted to that person, firm, corporation, club, or association of persons for a period of one year from the date their license or permit has been revoked. Notice of the revocation shall be mailed to the probate judge and license inspector of the county in which the revocation was made.

“(b) In addition to the penalty levied by the department pursuant to subsection (a), the county license inspector, license commissioner, revenue commissioner, tax assessor, or tax collector of the county in which the untaxed tobacco product is located may assess a penalty against any person failing to affix the required stamps to any cigars, cheroots, stogies, cigarettes, smoking tobacco, and snuff. The amount of the additional penalty shall be not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

“(c) The department and local taxing official may assess the tax levied by this chapter pursuant to the assessment procedures set out in Chapter 2A of this Title 40.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:14 A.M.

Act No. 94-686

H. 544 – Reps. McDaniel, Smith (R), Payne,
Newton (C)

AN ACT

To amend Sections 8-24-1, 8-24-2, 8-24-3, 8-24-4, and 8-24-5, Code of Alabama 1975, relating to commission contracts between a sales representative and certain principals; to further provide for the definition of a principal; to provide that the terms of a contract between the principal and sales representative shall determine when a commission becomes due or in the absence of a contract, past practices between the parties or the prevailing custom and usage shall control; to provide that commissions due at the time of termination of a contract shall be paid within thirty days; to provide that a principal who fails to pay a commission when due shall be liable to the sales representative in a civil action for treble damages, attorney's fees, and court costs; and to provide that the provisions of this statute cannot be waived and that any remedy is cumulative and not exclusive.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 8-24-1, 8-24-2, 8-24-3, 8-24-4, and 8-24-5, Code of Alabama 1975, are amended to read as follows:

“§8-24-1.

“As used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) **COMMISSION.** Compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the dollar amount of certain orders or sales.

“(2) **PRINCIPAL.** Any person who does all of the following:

“a. Engages in the business of manufacturing, producing, importing, or distributing a product or products for sale to customers who purchase the product or products for resale.

“b. Utilizes sales representatives to solicit orders for the product or products.

“c. Compensates the sales representatives, in whole or in part, by commission.

“(3) **SALES REPRESENTATIVE.** Any person who engages in the business of soliciting, on behalf of a principal, orders for the purchase at wholesale of the product or products of the principal, but does not include a person who places orders or purchases for his or her own account for resale, or a person engaged in home solicitation sales.

“(4) **TERMINATION.** The end of services performed by the sales representative for the principal, whether by discharge, resignation, or expiration of a contract.”

“§8-24-2.

“(a) The terms of the contract between the principal and sales representative shall determine when a commission is due.

“(b) If the time when the commission is due cannot be determined by a contract between the principal and sales representative, the past practices between the parties shall control, or if there are no past practices, the custom and usage prevalent in this state for the business that is the subject of the relationship between the parties shall control.

“(c) All commissions that are due at the time of termination of a contract between a sales representative and principal shall be paid within thirty days after the date of termination. Commissions that become due after the termination date shall be paid within thirty days after the date on which the commissions become due.”

“§8-24-3.

“A principal who fails to pay a commission as required by Section 8-24-2 is liable to the sales representative in a civil action for three times the damages sustained by the sales representative plus reasonable attorney’s fees and court costs.”

“§8-24-4.

“A principal who is not a resident of this state and who enters into a contract subject to this chapter is considered to be doing business in this state for purposes of the exercise of personal jurisdiction over the principal.”

“§8-24-5.

“(a) This chapter may not be waived, whether by express waiver or by any provision in a contract attempting to make the contract or agreement subject to the laws of another state. A waiver of any provision of this chapter is void.

“(b) This chapter does not invalidate or restrict any other right or remedy available to a sales representative or preclude a

sales representative from seeking to recover in one action on all claims against a principal.”

Section 2. This act is cumulative to any other law providing any remedy for the recovery of commissions owed to a sales representative by a principal.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:15 A.M.

Act No. 94-687

H. 617 – Reps. Kennedy, Zoghby, Gullatt,
Rockhold, McDowell, Hall (L)

AN ACT

To amend Sections 41-9-550 and 41-9-553, Code of Alabama 1975; to provide for the quorum of the board of directors of the Alabama Women's Hall of Fame; to allow meetings of the board to be held by telephone, provided that advance written notice is given all members of the board; and to provide for the annual appropriation made to the board.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 41-9-550 and 41-9-553, Code of Alabama 1975, are amended to read as follows:

“§41-9-550.

“There is created and established a board to be designated and known as the Alabama women's hall of fame. The board shall be composed of 11 members with at least one member chosen from each of the following fields: politics, art, education, business, law, community service, medicine, religion, and science. The initial members of the board shall be appointed by the governor. In addition, the governor and the president of Judson College shall serve as voting members of the board. The executive secretary, shall serve as a nonvoting member of the board. The board shall meet semiannually and at other times as its rules and bylaws may prescribe. A quorum of five members of the board shall be present for business to be conducted. The board may meet and transact any of its business by telephone provided written notice is given to all

board members 10 days prior to the date of the meeting. The members of the board shall not be compensated for their services, but each member shall be entitled to reimbursement for expenses incurred in attending board meetings. Members of the board shall serve for terms of three years. The board shall fill vacancies as they occur and shall have the full and final right of choosing succeeding members. The chair shall be elected annually. The executive secretary shall serve at the pleasure of the board."

"§41-9-553.

"The board shall receive an annual appropriation which shall be fixed by the legislature during each regular session. The appropriation shall be used by the board to pay for stationery, plaques, display cases, installation programs, administrative functions, and such other necessary or appropriate expenses incurred in carrying out the purposes of the board."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:17 A.M.

Act No. 94-688

H. 486 – Reps. Kvalheim, McMillan, Hooper, Turner, Mikell, Rockhold, Gaston, Delbare, Cullins, **Smith (R)**, Buskey, Black (M), Payne, Carns, Smith (C), Millican, Knight (A), Hill, Collins, Sanderson, Gaines, Morton, Hall (A), Beasley, Haynes

AN ACT

To create and establish the Alabama High School Legislative Leadership Academy at the University of South Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature finds that the development of leadership qualities among young citizens is essential to the future well-being of Alabama. The rapid pace of social and technological change and the resulting uncertainty about the future call for strong leadership at all levels. The Legislature further finds that there is a need to identify and build leadership skills among

Alabama's young citizens, particularly those who may not otherwise benefit from existing leadership programs.

Section 2. The Alabama High School Legislative Leadership Academy at the University of South Alabama is created. The academy shall begin operation in July 1994. The academy shall provide participants with opportunities to gain insights into the legislative process in Alabama by providing seminars on developing leadership skills, critical thinking skills, communications skills, problem solving skills, and team building activities.

Section 3. One participant in the Legislative Leadership Academy shall be selected from each House of Representatives district and each Senate district by the Member of the Alabama Legislature representing the district. Selections shall be made by March 15 of each year.

Section 4. To be eligible for participation in the Legislative Leadership Academy, a student shall be entering the eleventh or twelfth grade in the school year immediately following participation in the academy during the summer. A student shall be eligible to participate in the academy only once. Eligibility criteria may include, but shall not be limited to, the following:

- (1) Academic performance.
- (2) Leadership potential.
- (3) Personal attributes, including enthusiasm, creativity, independence, maturity, dependability, and initiative.
- (4) Interpersonal skills, including cooperation, listening ability, communication skills, and concern for others.
- (5) Citizenship skills, including respecting the rights of others and the ability to command respect from others.
- (6) Coping skills, including perseverance, ability to adapt to changing situations, giving and accepting constructive criticism, and learning from mistakes.
- (7) Accomplishments, including personal growth, community involvement, special talents, and academic accomplishments.

Section 5. Participants shall be provided room and board, food, and supplies. Participants shall provide their own transportation to and from the academy.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:20 A.M.

Act No. 94-689

H. 748 – Rep. Harvey

AN ACT

To amend Section 23-1-50.1 of the Code of Alabama 1975, to further provide for the definition of road machinery and equipment to include certain aircraft and automotive equipment transferred from the Department of Finance to the Department of Transportation, pursuant to Executive Order No. 12, dated December 21, 1993, in the Department of Transportation, Road Machinery and Equipment Management Program and Equipment Management Surplus Reserve Account.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 23-1-50.1 of the Code of Alabama 1975, is amended to read as follows:

“§23-1-50.1.

“(a) It is the intent of the Legislature to give the State Department of Transportation authority to accumulate depreciation, equipment replacement allowances, and salvage value on road machinery and equipment sufficient to upgrade, replace, or make extraordinary repairs to the road machinery and equipment of the State Department of Transportation, as determined by a road machinery and equipment management program to be developed by the department.

“(b) Unless the context clearly indicates otherwise, the following words and phrases will have the following meanings:

“(1) DEPARTMENT OF TRANSPORTATION DIVISIONS. — Those divisions of the Department of Transportation responsible for road construction and maintenance over a specified geographic area of the state.

“(2) DEPRECIATION. — That process of allocating the original cost per fixed asset over the productive life of the asset using some generally accepted method of depreciation.

“(3) EQUIPMENT MANAGEMENT SURPLUS RESERVE ACCOUNT. — A special revolving account or fund to be established in the public road and bridge fund of the State Department of Transportation to accumulate depreciation, equipment replacement allowances, and salvage value to be used to upgrade, replace, or make extraordinary repairs to road machinery and equipment.

“(4) EQUIPMENT REPLACEMENT ALLOWANCE. — An amount, when added to the depreciation and salvage value of a unit of road machinery and equipment and accumulated in a special account, that will provide the funds to upgrade, replace, or make extraordinary repairs to that unit of road machinery and equipment.

“(5) EXTRAORDINARY REPAIRS. — Repairs made to extend an asset’s useful life beyond that which was originally estimated.

"(6) GENERAL OFFICE. — Those general and administrative offices of the Department of Transportation located in Montgomery, Alabama.

"(7) ROAD MACHINERY AND EQUIPMENT. — Self-propelled equipment or other equipment commonly referred to in the State Department of Transportation as rental equipment, including aircraft.

"(8) SALVAGE VALUE. — That portion of a unit of road machinery and equipment's cost that is recovered at the end of its productive life.

"(c) There is created in the public road and bridge fund of the State Department of Transportation an equipment management surplus reserve account. The director of the department is directed to establish a road machinery and equipment management program which shall determine the type, number, and distribution between the general office and department divisions of the road machinery and equipment necessary to carry out the mission of the Department of Transportation in an efficient manner. This system shall also determine the productive life of all of the road machinery and equipment and establish depreciation rates, equipment replacement allowance, and salvage value which, when accumulated in the equipment management surplus reserve account, will provide the necessary funds to upgrade, replace, or make extraordinary repairs to road machinery and equipment.

"(d) The equipment management surplus reserve account shall be subdivided into subaccounts as follows: one for the general office and one each for each of the department divisions. Depreciation, equipment replacement allowance, and salvage value shall be credited to the account of the general office or department division to which the unit of road machinery and equipment is assigned and shall not be commingled or transferred between the department division and the general office. The funds in each of these subaccounts of the general office and department divisions shall be available to the appropriate office or division to upgrade, replace, or to make extraordinary repairs to road machinery and equipment.

"(e) There is appropriated all of the funds created to the equipment management surplus reserve accounts, due to the depreciation, equipment replacement allowance, and salvage value of road machinery and equipment, for upgrading, replacement, or extraordinary repairs to road machinery and equipment. These funds shall not revert at the end of each fiscal year, but shall carry over to each succeeding year. It is the intent of the Legislature that funds appropriated from the equipment management surplus reserve account be used only to upgrade, replace, or make extraordinary repairs to road machinery and equipment, and that they not be used to increase the

number of units of equipment of the Department of Transportation. It is the further intent of the Legislature to use these funds to maintain the present level of road maintenance, as opposed to using the funds to place the state in a competitive position with private enterprise. Specific funds shall be appropriated by the Legislature to increase the number of units of road machinery and equipment. It is specifically provided that the aircraft, pickup truck, and three automobiles transferred from the Department of Finance to the Department of Transportation, pursuant to Executive Order No. 12, dated December 21, 1993, shall be added to and become a part of the Department of Transportation Road Machinery and Equipment Management Program and Equipment Management Surplus Reserve Account.

“(f) Any other provision of law to the contrary notwithstanding, at the end of the productive life of a unit of road machinery or equipment covered by the equipment management surplus reserve account established as provided for in this section, the unit of road machinery or equipment shall be sold at the discretion of the director, either at public auction, as provided for by the laws of the State of Alabama, or by a negotiated sale between the Department of Transportation and any other state department or agency, and the proceeds from any sale, whether at public auction or by such negotiation, shall be paid into the equipment management surplus reserve account and credited to the subaccount to which the unit of road machinery or equipment is credited.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 10:25 A.M.

Act No. 94-690

H. 241 – Rep. Freeman

AN ACT

Relating to mental health and mental retardation; providing for the exercise of temporary custody of alleged mentally ill persons by law enforcement and community mental health officers at designated mental health facilities; authorizing the judge of probate to make a finding in order that the county might, with the approval of the county commission, adopt and be covered by the provisions of this act; and providing civil immunity for certain persons acting in good faith pursuant to the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act, the following words and phrases shall have the following meanings:

(1) **DESIGNATED MENTAL HEALTH FACILITY.** A mental health facility other than a state mental health facility designated by the State Department of Mental Health and Mental Retardation to receive persons for evaluation, examination, admission, detention, or treatment pursuant to the commitment process.

(2) **COMMUNITY MENTAL HEALTH OFFICER.** A person who acts as a liaison between law enforcement and the general public, and who is regularly employed by a municipality within the county or regularly employed by the county commission or any public body or agency, including the State Department of Mental Health and Mental Retardation. A community mental health officer may be employed jointly or in combination by two or more governments, entities, or agencies authorized by the immediately preceding sentence. Notwithstanding the foregoing, a community mental health officer shall not be an employee of the Department of Human Resources. A community mental health officer shall possess a minimum of a Bachelor's Degree from an accredited college or university in social work or a related field or, with the approval pursuant to findings of the judge of probate, any equivalent combination of education and experience; at least one year of experience in social work; knowledge of the principles, practices, and techniques of social work as they apply to crisis intervention; knowledge of theory, principles, and practices of psychiatric social work; knowledge of federal, state, and municipal laws regarding the aiding of mental patients; and knowledge of the functions and resources of public and private social agencies in the community. The compensation of the community mental health officer shall be determined by the employing entity, entities, or agency. The State Department of Mental Health and Mental Retardation may pay part or all of the compensation, including fringe benefits, of the community mental health officer employed hereunder.

(3) **COUNTY.** A county in the State of Alabama.

(4) **LAW ENFORCEMENT OFFICER.** A policeman regularly employed by a municipality within the county or a sheriff or deputy sheriff regularly employed by the county.

(5) **WITHIN THE COUNTY.** A place within the boundaries of the county.

Section 2. (a) When a law enforcement officer is confronted by circumstances and has reasonable cause for believing that a person within the county is mentally ill and also believes that the person is likely to be of immediate danger to self or others, the law enforcement officer shall contact a community mental health officer.

The community mental health officer shall join the law enforcement officer at the scene and location of the person to assess conditions and determine if the person needs the attention, specialized care, and services of a designated mental health facility. If the community mental health officer determines from the conditions, symptoms, and behavior that the person appears to be mentally ill and poses an immediate danger to self or others, the law enforcement officer shall take the person into custody and, together with the community mental health officer, deliver the person directly to the designated mental health facility. At the designated mental health facility, a responsible employee of the facility who is on duty and in charge of admissions to the facility shall be informed by the community mental health officer that the person in custody appears to be mentally ill and is in need of examination and observation.

(b) The employee of the designated mental health facility shall immediately notify an appropriate staff member of the facility who conducts diagnoses and evaluations that an alleged mentally ill person has been received at the facility. The staff member shall immediately perform an initial examination and observation which, coupled with whatever other information concerning the person's behavior as may be available, will allow the staff member to make a determination as to whether to admit the person to the designated mental health facility as a tentatively diagnosed mentally ill patient for further observation and attention. Notwithstanding anything in this act to the contrary, before any person is admitted to a licensed hospital pursuant to this act, the person shall be examined and evaluated by a psychiatrist or other physician licensed to practice medicine and authorized by the hospital medical staff bylaws of the licensed hospital to admit patients for the treatment of mental or emotional illnesses. All admissions to a licensed hospital authorized under this act shall be made only in conformity with established policies, procedures, and the medical staff bylaws of the licensed hospital to which the person is admitted. No provision of this act shall be construed to authorize or permit any person not licensed to practice medicine to perform any act or render any service which constitutes the practice of medicine.

(c) Upon a determination by the staff member that the person does not require admission to the designated mental health facility, the staff member shall so advise the community mental health officer. The community mental health officer shall promptly communicate this information to the law enforcement officer who shall cause the person to be released from the designated mental health facility. The law enforcement officer shall then release the person unless the law enforcement officer has some legal cause for detaining the person other than the person's mental condition. After the person is released, and, if so requested by the person, the law

enforcement officer shall deliver the person to the person's residence or other place of abode if it is within the county.

(d) Upon a determination by the staff member that the alleged mentally ill person should be admitted to the designated mental health facility, the staff member shall proceed with admission of the person to the facility. The staff member shall also advise the community mental health officer who shall promptly communicate this information to the law enforcement officer. The community mental health officer shall effectuate the filing of a petition for commitment with the probate court on the person by parties in interest. If no one comes forward to timely file the petition, the community mental health officer shall file the petition in his or her official capacity no later than the second business day following the date of admission.

(e) No later than the next business day following the date of admission, the staff member shall notify the judge of probate, or the probate clerk of the county, of the admission to the designated mental health facility of the alleged mentally ill person. The judge of probate or the probate clerk shall arrange a probable cause hearing to determine if the detention of the alleged mentally ill person is based upon probable cause to believe that confinement is necessary under constitutionally proper standards for commitment or alternate modes of treatment and if the detention should continue until a final hearing on the merits can be held. In the case where a community mental health officer has acted in helping gain the admission of the alleged mentally ill person to a designated mental health facility for initial examination and observation, the judge of probate shall interview the alleged mentally ill person pursuant to this section no later than the fifth business day next after admission to the designated mental health facility or hospital.

(f) Prior to the probable cause hearing the probate court shall furnish adequate notice informing the person, or his or her counsel, of the time and place of the hearing and of the factual grounds upon which the proposed commitment is predicated and the reasons for the necessity of confinement. The probate court shall require that the alleged mentally ill person be represented by counsel at the hearing, which counsel shall be appointed by the court if necessary. The probate court shall require the presence of the alleged mentally ill person at the hearing unless his or her presence is waived by counsel and approved by the court after an adversary hearing at the conclusion of which the court judicially finds and determines that the person is so mentally or physically ill as to be incapable of attending the probable cause hearing. In no event may detention in the absence of a petition for commitment and a probable cause hearing exceed seven days from the

date of the initial confinement under this act. If the court finds and determines that there is no probable cause to detain the person, the court shall immediately cause the person to be discharged and released from the designated mental health facility. Notwithstanding the foregoing, if criminal charges have been placed against the individual and the health care facility has been so notified by an appropriate law enforcement officer, the designated mental health facility shall release the person into the custody of the appropriate law enforcement officer.

(g) If the court determines there is probable cause to detain the person pending a full hearing on the need for commitment or some alternate mode of treatment, the court shall issue a mittimus or commitment of the person to the designated mental health facility until the proceedings may be held in accordance with law. Notwithstanding the foregoing, the proceedings shall be held within a reasonable time following initial detention, but in no event sooner than will permit adequate preparation of the case by counsel, or later than 30 days from the date of the initial detention.

Section 3. This act shall not be applicable to any county unless and until the judge of probate with the approval of the county commission of that particular county makes a finding that there exists in the county provisions for implementation of the community mental health officer program and the necessary facilities to detain persons pursuant to this act. In that event, the judge of probate shall open a case under a docket number and enter therein findings upon the records of the court which shall also expressly state the intention thereby to invoke this act. Notification and a copy of the court's findings and statement shall be served on all designated mental health facilities located within the county, all law enforcement agencies within the county, the Commissioner of the State Department of Mental Health and Mental Retardation, the State Attorney General, the Secretary of State, the Governor of the State of Alabama, and any other persons deemed appropriate by the judge of probate. In the event of changed circumstances, the judge of probate may terminate the procedures set forth in Section 2, and shall make findings accordingly and serve the parties named herein and others previously notified.

Section 4. No county shall be required to pay costs associated with the temporary confinement or commitment of a person to a designated mental health facility, including, but not limited to, the cost of housing and treatment. All costs associated with a probable cause hearing, including cost of counsel, shall be paid by the State General Fund upon order of the judge of probate; except, that if the petition is denied and the petitioner is not indigent and is not a law enforcement officer or other public official acting within the

line and scope of his or her duties, all costs may be taxed against the petitioner, or if the petition is granted and the person sought to be committed is not indigent, the judge of probate may order all costs paid from the estate of the person committed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 2:15 P.M.

Act No. 94-691

H. 648 -- Rep. Harper

AN ACT

To amend Section 37-1-18, Code of Alabama 1975, which provides for an annual appropriation from the State General Fund to the Consumer's Utility Rate Hearing Fund to be used for the presentation of the case for the consumer in utility rate increase hearings before the Public Service Commission, so as to provide for the use of the Consumer Utility Rate Hearing Fund by the Attorney General and that the fund shall be under the Office of the Attorney General.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-1-18, Code of Alabama 1975, is amended to read as follows:

"§37-1-18.

"Each fiscal year, including the fiscal year of the enactment of this section, there is hereby appropriated from the state general fund the sum of \$250,000.00, which funds shall be immediately deposited into a consumer's utility rate hearing fund in the state treasury under the Office of the Attorney General, to be drawn upon by the attorney general for purposes of hiring attorneys, staff personnel, and expert witnesses to present the case for the consumer in utility rate increase hearings and all appeals arising therefrom. At the end of each fiscal year, any surplus remaining in the consumer's utility rate hearing fund shall forthwith be transferred to the state general fund."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 2:16 P.M.

Act No. 94-692

H. 817 – Rep. Buskey

AN ACT

To amend Section 17-10-11, Code of Alabama 1975, to provide for appointment of election workers in sufficient numbers as necessary to process and canvas absentee ballots using optical scanning devices.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-10-11, Code of Alabama 1975, is amended to read as follows:

“§17-10-11.

“(a) For every primary, general, special or municipal election, there shall be appointed three managers, two clerks and a returning officer, named and notified as are other election officials under the general laws of the state, who shall meet, at the regular time of closing of the election on that day, in the office of the clerk or register for the purpose of receiving, counting and returning the ballots cast by absent voters. The returns from the absent box shall be made as required by law for all other boxes. It shall be unlawful for any election official or other person to publish or make known to anyone the results of the count of absentee votes before the polls close.

“(b) Notwithstanding the provisions of subsection (a) of this section, in counties with populations of 50,000 or more, there shall be appointed three managers, two clerks and one returning officer for each 200 absentee ballots, or fraction thereof, cast at the election. In those counties, the appointing board for the election shall meet at least four days before the election, determine the number of officials to be appointed and appoint and notify them as other election officials are appointed and notified.

“(c) Any person or organization authorized to appoint poll watchers under section 17-6-8 or 17-16-26 may have a single watcher present at the counting of absentee ballots, with the rights as are conferred by the aforesaid sections and by any other provisions of state law.

“(d) This section shall not apply to municipal elections in cities and towns of less than 10,000 inhabitants which are held at a time different from a primary or general election.

“(e) Notwithstanding the provisions of subsections (a) and (b), in those counties using an optical scanning system to count absentee ballots, the election appointment board may appoint managers, clerks, and returning officers as are necessary to process and canvas absentee ballots.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 3:30 P.M.

Act No. 94-693

H. 491 – Rep. Penry

AN ACT

To amend Section 17-4-153, Code of Alabama 1975, to provide further for the salary of each member of the Board of Registrars in each county.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-4-153, Code of Alabama 1975, is amended to read as follows:

“§17-4-153.

“(a) Each registrar shall receive a salary in the amount of \$60 per day for each day’s attendance upon business of the board, to be paid by the state and disbursed to the county commissions and disbursed by the county commissions to each registrar on order of a quorum of the board of registrars of the county. The State Comptroller shall issue to each county commission on a monthly basis an amount sufficient to fund these payments plus the employer share of the social security or Federal Insurance Corporation Act tax. The county commission will provide to the State Comptroller an invoice itemized to reflect payments made. If a legal holiday falls on a day the board is to be in session, and the courthouse of the county is closed for the holiday, the board of registrars shall be compensated for the holiday. Each registrar shall receive a mileage allowance equal to the amount allowed state employees or employees of the county, whichever is greater, for official travel in the course of attending the business of the board, including attending continuing education programs. Travel and other expenses shall be paid by the county commissions to the boards of registrars and the state shall reimburse the county commissions based on a written request submitted by the county commissions to the State Comptroller.

“(b) The provisions of this section regarding travel mileage shall not apply in any county having a population of 600,000 or more inhabitants according to the 1970 or any succeeding federal decennial census, and any currently effective local law or general law of local application regarding travel mileage for registrars in

the county shall remain in full force and effect and shall not be repealed by operation of this chapter.

“(c) Members of the boards of registrars of this state are hereby declared to be state employees for the purposes of Chapter 28 of Title 36.

“(d) Members of the boards of registrars of this state shall be treated as equals with other state and county employees in regard to social security protection and benefits.

“(e) All payments by a county to any member of a county board of registrars (except for mileage or reimbursement for expenses) shall be treated for social security purposes equally with payments by that county to other county employees of the county.

“(f) The State Office for Social Security and the State Comptroller and each county commission are directed to take all necessary action to insure that members of the boards of registrars of this state are treated as other state and county employees in regard to social security protection and benefits as provided in Chapter 28 of Title 36, including, if necessary, amending the federal-state agreement referred to in Chapter 28 of Title 36, to implement the intent of the legislature as expressed herein.”

(g) No county commission may reduce the current county supplement upon the effect of this section by implementation of this act.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 3:31 P.M.

Act No. 94-694

H. 584 – Rep. McDaniel

AN ACT

To authorize the various municipal governing bodies individually or jointly with other municipalities to levy additional costs and fees on certain municipal cases and to provide for the distribution of the funds to construct, equip, and maintain a jail or jails or a court complex.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) In addition to any court costs and fees now or hereafter authorized, any municipal governing body, by majority vote of the municipal governing body, may individually or jointly with one or more municipalities in the county levy and assess additional court

costs and fees up to an amount not to exceed the county court costs and fees on each case hereafter filed in any municipal court of the municipality or municipalities. The cost or fee shall not be waived by any court unless all other costs, fees, assessments, fines, or charges associated with the case are waived. The costs and fees when collected by the clerks or other collection officers of the courts, shall be paid into a special municipal fund designated as the "Corrections Fund." The affected governing body shall allocate the funds exclusively for the operation and maintenance of the municipal jail or jails, other correctional facilities, if any, any juvenile detention center, or court complex.

Section 2. The municipal governing body may appropriate other funds, space, and property sufficient to maintain and equip any municipal jail or court complex. The municipal governing body may also receive gifts, grants, and property for the use of the jail or court complex and may contract for services related to the construction, equipment, and maintenance of the jail or court complex.

Section 3. The municipal governing body or municipal governing bodies may provide for the implementation of this act with another governmental entity by entering into a contract pursuant to a resolution or ordinance for the construction and operation of joint municipal correctional facilities or court complex and may adopt joint rules and regulations applicable to the jurisdiction of each entity relative to the correctional or court facilities.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 3:32 P.M.

Act No. 94-695

H. 2 – Rep. Willis

AN ACT

To provide distinctive motor vehicle license tags or plates for members of the Ancient Arabic Order of Nobles of the Mystic Shrine for North America; providing for the fees for these tags or plates and for the distribution of the net proceeds from the fees; and providing for a delayed implementation date.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) A member of the Ancient Arabic Order of Nobles of the Mystic Shrine for North America who is the owner of a motor vehicle and a resident of the state may be issued a distinctive license tag or plate bearing the words "The Ancient Arabic Order of Nobles of the Mystic Shrine" across the top portion of the tag or plate and bearing its logo between the county identification number and the actual license number. The member shall make application to the judge of probate or license commissioner, comply with the motor vehicle registration and licensing laws, pay the regular fees required by law for license tags or plates for private passenger or pleasure motor vehicles, and pay an additional fee of twenty-five dollars (\$25).

(b) The tags or plates shall be issued, printed, and processed like other distinctive and personalized tags and plates provided for in Chapter 6 of Title 32 of the Code of Alabama 1975. The tags or plates shall be valid for five years and may be replaced with either a conventional, personalized, or new "Ancient Arabic Order of Nobles of the Mystic Shrine" tags or plates. Payment of required license fees and taxes for the years during which a new tag or plate is not issued shall be evidenced as provided in Section 32-6-63 of the Code of Alabama 1975.

Section 2. The net proceeds of the additional revenues derived from sales of tags pursuant to this act, less administrative costs, including the cost of production of the tags, shall be distributed by the judge of probate or license commissioner to the Juvenile Health Care Board of the City of Piedmont, Alabama.

Section 3. The distinctive license plates or tags issued pursuant to this act shall not be transferable between motor vehicle owners, and in the event the owner of a vehicle bearing the distinctive plates sells, trades, exchanges, or otherwise disposes of the motor vehicle, the plates shall be retained by the owner to whom issued and returned to the judge of probate or license commissioner of the county, who shall receive and account for the tags or plates as provided in this section. In the event the owner acquires by purchase, trade, exchange, or otherwise a vehicle for which no standard plates have been issued during the current license period, the judge of probate or license commissioner of the county shall, upon being furnished by the owner proper certification of the acquisition of the vehicle and the payment of the motor vehicle license tax due upon the vehicle, authorize the transfer of the distinctive license plates or tags previously purchased by the owner to the vehicle, which plates or tags shall authorize the operation of the vehicle for the remainder of the then current license period. In the event the owner of the distinctive license plates or tags acquires by purchase, trade, exchange, or otherwise a vehicle for which standard plates have been issued during the current license year, the judge of probate or license

commissioner shall, upon proper certification of the owner and upon delivery to the official of the standard plates previously issued for the vehicle, authorize the owner of the newly-acquired vehicle to place the distinctive license plates or tags previously purchased the vehicle and use the plates for the remainder of the then current license period. The notice of transfer of ownership shall be made of record by the judge of probate or the license commissioner.

Any person acquiring by purchase, trade, exchange, or otherwise any vehicle formerly bearing the distinctive plates may, upon certification of the fact to the judge of probate or license commissioner of the county and the payment of the fee now required by law, purchase standard replacement plates for the vehicle which shall authorize the operation of the vehicle by the new owner for the remainder of the license period.

Section 4. Upon termination of membership with the Ancient Arabic Order of Nobles of the Mystic Shrine, an applicant to whom a distinctive license plate was issued under Section 1 shall, within 30 days, return the plate to the judge of probate or the license commissioner of the county of the applicant's residence.

Section 5. If a distinctive license plate deteriorates to the point where inscriptions thereon are not discernible, the owner or lessee may obtain a replacement plate free of charge.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. This act shall become effective on the first day of the fourth month next following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1994

Time: 3:35 P.M.

Act No. 94-696

H. 920 – Rep. Holladay

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Moody in St. Clair County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Moody in St. Clair County are altered, rearranged,

and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

Begin at the northeast corner of the northeast one-quarter of the southeast one-quarter of Section 17, Township 16 South, Range 2 East, St. Clair County, Alabama; thence run in a westerly direction along the north line of said quarter-quarter to its northwest corner; thence turn right and run in a northerly direction along the east line of the southwest one-quarter of the northeast one-quarter of said Section 17 to its northeast corner; thence turn left and run in a westerly direction along the north line of said quarter-quarter section to its northwest corner; thence continue in a westerly direction along the north line of the southeast one-quarter of the northwest one quarter of said Section 17 to its northwest corner; thence turn left and run in a southerly direction along the west line of said quarter-quarter section to its southwest corner; thence turn right and run in a westerly direction along the north line of the northwest one-quarter of the south west one-quarter of said Section 17 to its northwest corner; thence turn left and run in a southerly direction the west line of said quarter-quarter section to its southwest corner; thence continue in a southerly direction along the west line of the southwest one quarter of the southwest one-quarter of said Section 17 to its southwest corner, said point also being the northeast corner of Section 19, Township 16 South, Range 2 East; thence turn right and run in a westerly direction along the north line of said Section 19 to the northwest corner of said section; thence continue in a westerly direction along the north line of Section 24, Township 16 South, Range 1 East to the northwest corner of said Section 24; thence turn left and run in a southwesterly direction along the northeast to southwest diagonal line of Section 23, Township 16 South, Range 1 East to the southwest corner of said Section 23; thence turn right and run in a westerly direction along the north line of Section 27, Township 16 South, Range 1 East to the northwest corner of said Section 27; thence continue in a westerly direction along the north line of Section 28, Township 16 South, Range 1 East to the intersection with the southeasterly line of the Seaboard Coastline Railroad right-of-way; thence turn left and run in a southwesterly direction along said railroad right-of-way to its intersection with the west line of said Section 28; thence turn left and run in a southerly direction along said west line to the northwest corner of Lot 1 according to Cahaba Valley Estates-Second Sector as recorded in Map Book E, Page 28 in the Office of the Judge of Probate, St. Clair County, Alabama; thence turn left and run in a northeasterly direction along the northwesterly line of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 to the most north and west corner of said Lot 10; thence turn an angle to the right of $34^{\circ}45'11''$ and run in a northeasterly direction along the northerly lot line of said

Lot 10 to its most north and east corner; thence turn an angle to the right of $57^{\circ}35'$, and run in a southeasterly direction along the northeasterly lot line of said Lot 10 to its most south and east corner; thence continue in a southeasterly direction across the Cahaba Ridge Drive right-of-way to the most north and east corner of Lot 11 of said subdivision; thence continue in a southeasterly direction along the northeasterly lot line of said Lot 11 to the most south and east corner of said lot, said point also being the north corner of Lot 7 according to Cahaba Valley Estates as recorded in Map Book D, Page 103 in the Office of the Judge of Probate, St. Clair County, Alabama; thence continue in a southeasterly direction along the northeasterly lot line of said Lot 7 for a distance of 98.7 feet; thence turn an angle to the left of $21^{\circ}05'$ and continue in a southeasterly direction for a distance of 42.8 feet, more or less, to the easternmost corner of said Lot 7; thence continue in a southeasterly direction along the same bearing, crossing Mack Roper Road right-of-way, and along the northeasterly lot line of Lot 6 of said subdivision to the easternmost corner of said Lot 6; thence continue in a southeasterly direction along the same bearing for a distance of 1348.11 feet, more or less, to the intersection with the east line of the southeast one-quarter of the southwest one-quarter of said Section 28; thence turn right and run in a southerly direction along said east line for a distance of 420 feet, more or less, to the intersection with the south line of said Section 28; thence turn right and run in a westerly direction along said south line to the southwest corner of the southeast one-quarter of the southwest one-quarter of said Section 28; thence turn left and run in a southerly direction along the east line of the northwest one-quarter of the northwest one-quarter of Section 33, Township 16 South, Range 1 East to a point in the center of Old Highway 10, said point being 513.27 feet north of the southeast corner of said quarter-quarter section; thence turn an angle to the right of $68^{\circ}00'$ and run in a southwesterly direction along the center of said road for a distance of 681.80 feet to the Cahaba River Bridge; thence turn an angle to the left of $64^{\circ}17'$ and run in a southwesterly direction along a line parallel to said river for a distance of 136.78 feet; thence turn an angle to the left of $22^{\circ}44'$ and run in a southwesterly direction for a distance of 271.0 feet; thence turn an angle to the left of $19^{\circ}00'$ and run in a southwesterly direction for a distance of 238.3 feet; thence turn an angle to the left of $26^{\circ}00'$ and run in a southwesterly direction for a distance of 300.0 feet; thence turn an angle to the right of $53^{\circ}40'$ and run in a southwesterly direction for a distance of 311.4 feet; thence turn an angle to the right of $70^{\circ}40'$ and run in a southwesterly direction for a distance of 204.92 feet to the west line of the southwest one-quarter of the northwest one-quarter of said Section 33; thence turn left and run in a southerly direction along said west line to the southwest corner of said quarter-quarter section; thence

continue in a southerly direction along the west line of the southwest one-quarter of said Section 33 to the southwest corner of said quarter section; thence continue in a southerly direction along the west line of Section 4, Township 17 South, Range 1 East to the southwest corner of said section; thence continue in a southerly direction along the west line of Section 9, Township 17 South, Range 1 East to the southwest corner of the northwest one-quarter of said Section 9; thence continue in a southerly direction along said west line for a distance of 800 feet, more or less, to the existing Leeds Corporate Limits; thence turn left and run in an easterly direction along a line parallel to the south line of said Section 9 and along said corporate limits to the intersection with the west line of the northeast one-quarter of the southeast one-quarter of said section; thence turn left and run in a northerly direction along said west line to the northwest corner of said quarter-quarter section; thence turn right and run in an easterly direction along the north line of said quarter-quarter for a distance of 1330 feet to the northeast corner of said quarter-quarter section; thence turn left and run in a northerly direction along the west line of Section 10, Township 17 South, Range 1 East to the northwest corner of said Section 10; thence continue in a northerly direction along the west line of Section 3, Township 17 South, Range 1 East to the northwest corner of the southwest one-quarter of said section; thence turn right and run in an easterly direction along the north line of said quarter-quarter to its northeast corner; thence continue in an easterly direction along the north line of the southeast one-quarter of the southwest one-quarter of said section to the intersection with the westerly right-of-way of Markeeta Spur Road; thence turn right and run in a southerly direction along said westerly right-of-way for a distance of 330 feet; thence turn left and run in an easterly direction, crossing said right-of-way to the northwest corner of that parcel of land conveyed to Gary C. Martin by a deed recorded in Book 209, Page 119 in the Office of the Judge of Probate, St. Clair County, Alabama; thence continue in an easterly direction along the north line of said parcel for a distance of 587.19 feet to the east line of the southeast one-quarter of the southwest one-quarter of said Section 3; thence turn right and run in a southerly direction along said east line for a distance of 1012.75 feet to the south line of said Section 3; thence turn left and run in an easterly direction along the north line of Section 10, Township 17 South, Range 1 East for a distance of 182.25 feet; thence turn an angle to the right of $88^{\circ}11'$ and run in a southerly direction for a distance of 860.20 feet to the northerly right-of-way of Markeeta Spur Road; thence continue in a southerly direction and along the same bearing to the southern right-of-way of Markeeta Spur Road; thence turn right and run in a westerly direction along said right-of-way to the intersection with the east line of the 60 foot

right-of-way of an unnamed public road; thence turn left and run in a southerly direction along said right-of-way for a distance of 487.02 feet to the north line of the southwest one-quarter of the northeast one-quarter of said Section 10; thence turn left and run in an easterly direction along said north line for a distance of 1316.24 feet to the northeast corner of said quarter-quarter section; thence turn right and run in a southerly direction along the east line of said quarter-quarter for a distance of 488.9 feet; thence turn an angle to the left of $37^{\circ}29'$ and run in a southeasterly direction for a distance of 210 feet to the westerly right-of-way of U.S. Highway 411; thence continue in a southeasterly direction, crossing said U.S. Highway 411, to the northwest corner of Lot 6 according to The Village at Moody as recorded in Map Book D, Page 147 in the Office of the Judge of Probate, St. Clair County, Alabama; thence turn right and run in a southerly direction along the easterly right-of-way of U.S. Highway 411 and the west line of Lots 6, 7, 8 and 9 of said subdivision to the northerly right-of-way of Interstate 20; thence turn left and run in an easterly direction along said northerly right-of-way to the east line of said Section 10; thence continue in an easterly direction along said northerly right-of-way of Interstate 20 to its intersection with the west line of the southwest one-quarter of the northeast one-quarter of Section 11, Township 17 South, Range 1 East; thence turn right and run in a southerly direction along said west line to the southeast corner of said quarter-quarter; thence continue in a southerly direction along the west line of the northeast one-quarter of the southeast one-quarter of said Section 11 to its southwest corner; thence turn right and run in a westerly direction along the north line of the southwest one-quarter of the southeast one-quarter of said section to its northwest corner; thence turn left and run in a southerly direction along the west line of said quarter-quarter to its southwest corner; thence continue in a southerly direction along the west line of the northeast one-quarter of Section 14, Township 17 South, Range 1 East to the southwest corner of said quarter-quarter section; thence continue in a southerly direction along the west line of the northwest one-quarter of the southeast one-quarter of said Section 14 to the southwest corner of said quarter-quarter section; thence turn left and run in an easterly direction along the south line of said quarter-quarter to its southeast corner; thence continue in an easterly direction along the south line of the northeast one-quarter of the southeast one-quarter of said Section 14 for a distance of 439.74 feet; thence turn and angle to the left of $69^{\circ}12'$ and run in a northeasterly direction for a distance of 620.40 feet; thence turn an angle to the right of $69^{\circ}12'$ and run in an easterly direction for a distance of 653.75 feet; thence turn an angle to the left of $90^{\circ}37'$ and run in a northerly direction for a distance of 384.78 feet; thence turn an angle to the right of $90^{\circ}22'02''$ and run in an easterly direction for a

distance of 495.0 feet; thence turn an angle to the left of $90^{\circ}22'02''$ and run in a northerly direction for a distance of 355.0 feet; thence turn an angle to the left of $89^{\circ}57'54''$ and run in a westerly direction for a distance of 134.92 feet; thence turn an angle to the right of $76^{\circ}21'05''$ and run in a northwesterly direction for a distance of 429.77 feet; thence turn an angle to the right of $102^{\circ}14'00''$ and run in an easterly direction for a distance of 701.28 feet; thence turn an angle to the left of $39^{\circ}04'56''$ and run in a northeasterly direction for a distance of 110.51 feet; thence turn angle to the right of $10^{\circ}34'38''$ and run in a northeasterly direction for a distance of 61.26 feet; thence turn an angle to the left of $119^{\circ}22'40''$ and run in a northwesterly direction for a distance of 30.02 feet; thence turn an angle to the right of $118^{\circ}17'54''$ and run in a northeasterly direction for a distance of 98.38 feet; thence turn an angle to the right of $5^{\circ}45'41''$ and run in a northeasterly direction for a distance of 61.29 feet; thence turn an angle to the left of $27^{\circ}20'38''$ and run in a northeasterly direction for a distance of 85.36 feet; thence turn an angle to the left of $64^{\circ}08'29''$ and run in a northwesterly direction for a distance of 126.35 feet; thence turn an angle to the right of $59^{\circ}31'09''$ and run in a northeasterly direction for a distance of 230.87 feet; thence turn an angle to the left of $104^{\circ}01'43''$ and run in a northwesterly direction for a distance of 178.73 feet; thence turn an angle to the right of $68^{\circ}19'02''$ and run in a northerly direction for a distance of 305.00 feet to the south line of the northwest one-quarter of the northwest one-quarter of Section 13, Township 17 South, Range 1 East; thence turn left and run in a westerly direction along said south line to the southwest corner of said quarter-quarter; thence turn right and run in a northerly direction along the west line of said quarter-quarter to its northwest corner; thence turn right and run in an easterly direction along the north line of said Section 13 to the northeast corner of said section; thence turn left and run in a northerly direction along the east line of Section 12, Township 17 South, Range 1 East to the intersection with the southeasterly line of the Southern Railroad 100-foot right-of-way; thence turn right and run in a northeasterly direction along said right-of-way to its intersection with the west line of Section 5, Township 17 South Range 2 East; thence turn left and run in a northerly direction along said west line to the northern right-of-way of Interstate 20; thence turn right and run in an easterly direction along said northern right-of-way to the intersection with the east line of said Section 5; thence turn left and run in a northerly direction along said east line to the northeast corner of said Section 5, said point also being the southeast corner of Section 32, Township 16 South, Range 2 East; thence continue in a northerly direction along the east line of Section 32 to the northeast corner of said section; thence continue in a northerly direction along the east line of Section 29, Township 16 South, Range 2 East to the

southeast corner of the northeast one-quarter of the northeast one-quarter of said Section 29; thence turn right and run in an easterly direction along the south line of the northwest one-quarter of the northwest one-quarter of Section 28, Township 16 South, Range 2 East to its southeast corner; thence continue in an easterly direction along the south line of the northeast one-quarter of the northwest one-quarter of said Section 28 to its southeast corner; thence turn left and run in a northwesterly direction along the southeast to northwest diagonal line of said quarter-quarter section to its northwest corner, said point also being the southeast corner of the southwest one-quarter of the southwest one-quarter of Section 21, Township 16 South, Range 2 East; thence turn right and run in a northerly direction along the east line of said quarter-quarter to its northeast corner; thence turn left and run in a westerly direction along the north line of said quarter-quarter to its northwest corner and the east line of Section 20, Township 16 South, Range 2 East; thence turn right and run in a northerly direction along said east line to the northeast corner of said Section 20; thence continue in a northerly direction along the east line of Section 17, Township 16 South, Range 2 East to the northeast corner of the northeast one-quarter of the southeast one-quarter of said section and the point of beginning.

LESS AND EXCEPT the following ten (10) parcels:

I

Begin at the northeast corner of the southeast one-quarter of Section 17, Township 16 South, Range 2 East, St. Clair County, Alabama; thence run in a westerly direction along the north line of said quarter-quarter for a distance of 249.5 feet; thence turn an interior angle of $90^{\circ}00'00''$ and run in a southerly direction for a distance of 1110.0 feet; thence turn an interior angle of $84^{\circ}37'00''$ and run in an easterly direction for a distance of 250.0 feet, more or less, to the intersection with the east line of said Section 17; thence turn left and run in a northerly direction along said east line for a distance of 1125.0 feet, more or less, to the northeast corner of said quarter-quarter and the point of beginning.

II

The southwest one-quarter of the southwest one-quarter, the southeast one-quarter of the southwest one-quarter, and the southwest one-quarter of the southeast one-quarter of Section 17, Township 16 South, Range 2 East, St. Clair County, Alabama.

III

The northwest one-quarter of the northwest one-quarter and the northeast one-quarter of the northwest one-quarter of Section 20, Township 16 South, Range 2 East, St. Clair County, Alabama.

IV

Begin at the northwest corner of the northeast one-quarter of the southeast one-quarter of Section 17, Township 16 South, Range 2 East, St. Clair County, Alabama; thence run in a southerly direction along the west line of said quarter-quarter to a point 180.0 feet north of the southwest corner of said quarter-quarter section; thence turn an angle to the left of $57^{\circ}01'09''$ and run in a southeasterly direction for a distance of 1252.21 feet to the northwesterly right-of-way of U.S. Highway No. 411; thence turn an angle to the left of $104^{\circ}47'07''$ and run in a northeasterly direction along said right-of-way for a distance of 450.67 feet; thence turn an angle to the left of $97^{\circ}41'20''$ and run in a northwesterly direction for a distance of 84.65 feet; thence turn an angle to the left of $7^{\circ}22'07''$ and run in a northwesterly direction for a distance of 153.94 feet; thence turn an angle to the left of $2^{\circ}42'43''$ and run in a northwesterly direction for a distance of 57.04 feet; thence turn an angle to the right of $31^{\circ}14'43''$ and run in a northwesterly direction for a distance of 62.15 feet; thence turn an angle to the right of $70^{\circ}50'06''$ and run in a northeasterly direction for a distance of 46.65 feet; thence turn an angle to the left of $110^{\circ}32'32''$ and run in a northwesterly direction for a distance of 144.20 feet; thence turn an angle to the right of $88^{\circ}42'49''$ and run in a northerly direction for a distance of 168.50 feet; thence turn an angle to the right of $0^{\circ}46'00''$ and run in a northerly direction for a distance of 155.00 feet; thence turn an angle to the right of $97^{\circ}47'47''$ and run in an easterly direction for a distance of 144.20 feet to the westerly right-of-way of a road; thence turn an angle to the left of $107^{\circ}38'00''$ and run in a northeasterly direction along said right-of-way for a distance of 210.0 feet; thence turn an angle to the left of $72^{\circ}22'00''$ and run in a northwesterly direction for a distance of 315.00 feet; thence turn an angle to the right of $79^{\circ}02'01''$ and run in a northerly direction for a distance of 236.00 feet; thence turn an angle to the right of $98^{\circ}15'20''$ and run in an easterly direction for a distance of 109.19 feet; thence turn an angle to the left of $103^{\circ}06'39''$ and run in a northerly direction for a distance of 159.26 feet; thence turn an angle to the left of $76^{\circ}38'30''$ and run in a westerly direction for a distance of 96.43 feet; thence turn an angle to the right of $84^{\circ}52'37''$ and run in a northerly direction for a distance of 327.30 feet; thence turn an angle to the left of $98^{\circ}30'00''$ and run in a westerly direction for a distance of 245.00 feet; thence turn an angle to the right of $98^{\circ}30'00''$ and run in a northerly direction for a distance of 172.11 feet to the north line of the northeast one-quarter of the southeast one-quarter of said Section 17; thence turn an angle to the left of $90^{\circ}18'00''$ and run in a westerly direction along said north line for a distance of 175.0 feet to the point of beginning.

V

Commence at the northeast corner of Lot 1, Block 3 according to Lazy Acres Subdivision as recorded in Plat Book B, Page 26-B in the Probate Office, Pell City Division, St. Clair County, Alabama, said point also lying on the west line of the southeast one-quarter of the southeast one-quarter of Section 17, Township 16 South, Range 2 East, and the southwest right-of-way line of Lazy V Lakes Road; thence run in a southeasterly direction along said right-of-way for a distance of 280.0 feet; thence deflect right $5^{\circ}32'00''$ and continue along said right-of-way for a distance of 47.17 feet; thence deflect right and form an interior angle of $67^{\circ}00'00''$ and run in a southwesterly direction for a distance of 299.31 feet to a point on the west line of said quarter-quarter and the east line of Lot 4, Block 3 of said Lazy Acres Subdivision, thence deflect right and form an interior angle of $63^{\circ}03'00''$ and run in a northerly direction along said west quarter-quarter line for a distance of 324.74 feet to the point of beginning.

VI

Begin at the southwest corner of the southeast one-quarter of the southeast one-quarter of Section 17, Township 16 South, Range 2 East, St. Clair County, Alabama; thence run in an easterly direction along the south line of said quarter-quarter to a point 297.0 feet from County Highway No. 25 said road also being U.S. Highway No. 411; thence turn an angle to the left of $71^{\circ}00'$ and run in a northeasterly direction for a distance of 600.0 feet, more or less, to the southwesterly right-of-way of Lazy V. Lakes Road; thence turn an angle to the left of $71^{\circ}00'00''$ and run in a northwesterly direction for a distance of 425.21 feet; thence turn an angle to the left of $90^{\circ}00'00''$ and run in a southwesterly direction for a distance of 420.0 feet; thence turn an angle to the left of $90^{\circ}00'00''$ and run in a southeasterly direction for a distance of 220.0 feet; thence turn right and run in an westerly direction along a line parallel to the south line of said quarter-quarter section for a distance of 300.0 feet, more or less, to the west line of said quarter-quarter; thence turn left and run in a southerly direction along said west line for a distance of 430.0 feet, more or less, to the southwest corner of said quarter-quarter section and the point of beginning.

VII

Begin at the northeast corner of Section 20, Township 16 South, Range 2 East, St. Clair County, Alabama; thence run South $2^{\circ}45'00''$ East along the east line of said Section 20 for a distance of 1494.68 feet; thence North $74^{\circ}46'00''$ West for a distance of 672.12 feet; thence North $21^{\circ}46'00''$ East for a distance of 150.00 feet;

thence North $74^{\circ}46'00''$ West for a distance of 97.32 feet; thence North $20^{\circ}20'00''$ East for a distance of 150.00 feet; thence North $75^{\circ}00'00''$ West for a distance of 63.22 feet; thence turn right and run in a northerly direction along a line parallel to the east line of said Section 20 for a distance of 160.0 feet; thence turn left and run in a westerly direction for a distance of 186.45 feet to the southeasterly right-of-way line of U.S. Highway No. 411, also known as County Road No. 25; thence turn right and run in a northeasterly direction along said right-of-way, crossing into Section 17, Township 16 South, Range 2 East, for a distance of 1075.0 feet, more or less, to the intersection with the southwesterly right-of-way of Coupland Lane; thence turn right and run in a southeasterly direction along said right-of-way for a distance of 400.0 feet, more or less, to its intersection with the north line of said Section 20; thence turn left and run in an easterly direction along said north line for a distance of 140.0 feet, more or less, to the northeast corner of said Section 20 and the point of beginning.

VIII

Commence at the northeast corner of the northwest one-quarter of the southeast one-quarter of Section 25, Township 16 South, Range 1 East, St. Clair County, Alabama; thence run in a southerly direction along the east line of said quarter-quarter for a distance of 345.00 feet to the point of beginning; thence continue along last described course for a distance of 970.12 feet to the northerly right-of-way line of Cox Road, also known as Acmar Road; thence turn right and run in a westerly northwesterly and northerly direction along said right-of-way for a distance of 1264.83 feet; thence turn an angle to the right of $80^{\circ}34'30''$ and run in a southeasterly direction for a distance of 449.52 feet to the point of beginning.

IX

The northwest one-quarter of the northeast one-quarter of Section 5, Township 17 South, Range 2 East, St. Clair County, Alabama. AND ALSO, begin at the southeast corner of Section 32, Township 16 South, Range 2 East, St. Clair County, Alabama; thence run in a westerly direction along the south line of said Section 32 to the southwest corner of the southwest one-quarter of the southeast one-quarter of said section; thence North $29^{\circ}36'47''$ East for a distance of 1510.0 feet, more or less, to the north line of said quarter-quarter section; thence turn right and run in an easterly direction along said north line to the northeast corner of said quarter-quarter; thence continue along the north line of the southeast one-quarter of the southeast one-quarter of said Section 32 to the northeast corner of said quarter-quarter; thence turn right and run in a southerly direction along the east line of said quarter-quarter to the southeast corner of Section 32 and the point of beginning.

X

Commence at the northeast corner of the northeast one-quarter of the northeast one-quarter Section 14, Township 17 South, Range 1 East, St. Clair County, Alabama; thence South $49^{\circ}00'00''$ West for a distance of 515.0 feet to the point of beginning; thence South $49^{\circ}00'00''$ West along the southeasterly line of a 100-foot railroad right-of-way for a distance of 1380.0 feet; thence South $28^{\circ}03'00''$ East for a distance of 447.5 feet to the northwesterly right-of-way of U.S. Highway No. 78, also known as Bankhead Highway; thence run in a northeasterly direction along said right-of-way to the point of beginning.

XI

The southwest one-quarter of the southeast one-quarter of Section 25, Township 16 South, Range 1 East, St. Clair County, Alabama; LESS AND EXCEPT the following three parcels:

(1) Commence at the northwest corner of the southeast one-quarter of the southwest one-quarter of Section 25, Township 16 South, Range 1 East; thence run in an easterly direction along the north line of said quarter-quarter for a distance of 1331.27 feet to the point of beginning; thence continue in an easterly direction along the north line of the southwest one-quarter of the southeast one-quarter of said Section 25 for a distance of 361.5 feet; thence turn an angle to the right of $103^{\circ}20'$ and run in a southwesterly direction for a distance of 361.5 feet; thence turn an angle to the right of $76^{\circ}40'$ and run in a westerly direction parallel to said quarter line for a distance of 361.5 feet; thence turn an angle to the right of $103^{\circ}20'$ and run in a northeasterly direction for a distance of 361.5 feet to the point of beginning.

(2) Commence at the northeast corner of the southwest one-quarter of the southeast one-quarter of Section 25, Township 16 South, Range 1 East; thence run in a westerly direction along the north line of said quarter-quarter for a distance of 624.5 feet to the point of beginning; thence continue along same line for a distance of 105.0 feet; thence turn an angle to the left of $90^{\circ}00'$ and run in a southerly direction for a distance of 210.0 feet; thence turn an angle to the left of $90^{\circ}00'$ and run in an easterly direction for a distance of 105.0 feet; thence turn an angle to the left of $90^{\circ}00'$ and run in a northeasterly direction for a distance of 210.0 feet to the point of beginning. ALSO, a roadway described as follows: Begin at the northeast corner of the above described lot; thence run in an easterly direction along the north line of said quarter-quarter section for a distance of 339.0 feet; thence turn left and run in a northerly direction for a distance of 110.0 feet to the southerly right-of-way of Cox Road; thence turn right and run in a southeasterly direction

along said right-of-way for a distance of 30.0 feet; thence turn right and run in a southerly direction for a distance of 140.0 feet; thence turn right and run in a westerly direction along a line 30.0 feet south of and parallel to the north line of said quarter-quarter for a distance of 369.0 feet to the intersection with the east line of the above described lot; thence turn right and run in a northerly direction along said east lot line for a distance of 30.0 feet to the point of beginning.

(3) Begin at the southeast corner of the southwest one-quarter of the southeast one-quarter of Section 25, Township 16 South, Range 1 East; thence run in a westerly direction along the south line of said quarter-quarter for a distance of 312.0 feet; thence turn right and run in a northerly direction parallel to the east line of said quarter-quarter for a distance of 900.0 feet; thence turn right run in a easterly direction parallel to the south line of said quarter-quarter for a distance of 312.0 feet to a point on the west line of said quarter-quarter section; thence turn right and run in a southerly direction along said east line for a distance of 900.0 feet to the point of beginning.

XII

Commence at the northwest corner of the southeast one-quarter of the southwest one-quarter of Section 25, Township 16 South, Range 1 East; thence run in an easterly direction along the north line of said quarter-quarter for a distance of 1331.27 feet to the point of beginning; thence continue in an easterly direction along the north line of the southwest one-quarter of the southeast one-quarter of said Section 25 for a distance of 361.5 feet; thence turn an angle to the right of $103^{\circ}20'$ and run in a southwesterly direction for a distance of 361.5 feet; thence turn an angle to the right of $76^{\circ}40'$ and run in a westerly direction parallel to said quarter line for a distance of 361.5 feet; thence turn an angle to the right of $103^{\circ}20'$ and run in a northeasterly direction for a distance of 361.5 feet to the point of beginning.

XIII

Commence at the northeast corner of the southwest one-quarter of the southeast one-quarter of Section 25, Township 16 South, Range 1 East; thence run in a westerly direction along the north line of said quarter-quarter for a distance of 624.5 feet to the point of beginning; thence continue along same line for a distance of 105.0 feet; thence turn an angle to the left of $90^{\circ}00'$ and run in a southerly direction for a distance of 210.0 feet; thence turn an angle to the left of $90^{\circ}00'$ and run in an easterly direction for a distance of 105.0 feet; thence turn an angle to the left of $90^{\circ}00'$ and run in a northeasterly direction for a distance of 210.0 feet to the

point of beginning. ALSO, a roadway described as follows: Begin at the northeast corner of the above described lot; thence run in an easterly direction along the north line of said quarter-quarter section for a distance of 339.0 feet; thence turn left and run in a northerly direction for a distance of 110.0 feet to the southerly right-of-way of Cox Road; thence turn right and run in a southeasterly direction along said right-of-way for a distance of 30.0 feet; thence turn right and run in a southerly direction for a distance of 140.0 feet; thence turn right and run in a westerly direction along a line 30.0 feet south of and parallel to the north line of said quarter-quarter for a distance of 369.0 feet to the intersection with the east line of the above described lot; thence turn right and run in a northerly direction along said east lot line for a distance of 30.0 feet to the point of beginning.

XIV

Begin at the southeast corner of the southwest one-quarter of the southeast one-quarter of Section 25, Township 16 South, Range 1 East; thence run in a westerly direction along the south line of said quarter-quarter for a distance of 312.0 feet; thence turn right and run in a northerly direction parallel to the east line of said quarter-quarter for a distance of 900.0 feet; thence turn right run in an easterly direction parallel to the south line of said quarter-quarter for a distance of 312.0 feet to a point on the east line of said quarter-quarter section; thence turn right and run in a southerly direction along said east line for a distance of 900.0 feet to the point of beginning.

XV

Begin at the southwest corner of the northeast one-quarter of the southwest one-quarter of Section 3, Township 17 South, Range 1 East, St. Clair County, Alabama; thence run in a northerly direction along the west line of said quarter-quarter for a distance of 450.0 feet; thence turn right and run in an easterly direction, parallel with the south line of said quarter-quarter to the intersection with the west right-of-way of Markeeta Spur Road; thence turn right and run in a southerly direction along said right-of-way to the intersection with the south line of said quarter-quarter; thence turn right and run in a westerly direction along said south line for a distance of 788.0 feet, more or less, to the point of beginning.

XVI

Commence at the northeast corner of the south one-half of the northeast one-quarter of the southwest one-quarter of Section 3, Township 17, South, Range 1 East, St. Clair County, Alabama; thence run in a westerly direction along the north line of said south one-half for a distance of 631.01 feet to the west right-of-way

line of Markeeta Spur Road and the point of beginning; thence continue along the last named course for a distance of 683.62 feet to the west line of said quarter-quarter; thence turn an angle to the left of $91^{\circ}19'30''$ and run in a southerly direction along said west line for a distance of 210.0 feet; thence turn an angle to the left of $88^{\circ}40'30''$ and run in an easterly direction for a distance of 680.30 feet to the west right-of-way of said road; thence turn an angle to the left of $90^{\circ}24'30''$ and run in a northerly direction along said right-of-way for a distance of 210.0 feet to the point of beginning.

XVII

Commence at the northeast corner of the northeast one-quarter of the southwest one-quarter of Section 3, Township 17 South, Range 1 East, St. Clair County, Alabama; thence run in a southerly direction along the east line of said quarter-quarter for a distance of 696.50 feet to the point of beginning; thence continue along the last named course for a distance of 210.0 feet; thence turn an angle to the right of $86^{\circ}17'$ and run in a westerly direction for a distance of 548.58 feet to the easterly right-of-way of Markeeta Spur Road; thence turn an angle to the right of $91^{\circ}59'$ and run in a northerly direction along said right-of-way for a distance of 210.0 feet; thence turn an angle to the right of $88^{\circ}03'$ and run in an easterly direction for a distance of 554.92 feet to the point of beginning.

XVIII

Lot 512 according to Acmar Land Company's Colgate Subdivision as recorded in the Office of the Judge of Probate, St. Clair County, Alabama, and situated in the northeast one-quarter of Section 27, Township 16 South, Range 1 East.

XIX

Lot 511 according to Acmar Land Company's Colgate Subdivision as recorded in the Office of the Judge of Probate, St. Clair County, Alabama, and situated in the northeast one-quarter of Section 27, Township 16 South, Range 1 East.

XX

The south one-half of the southwest one-quarter of the northeast one-quarter of the southwest one-quarter of the northwest one-quarter of Section 30, Township 16 South, Range 2 East, St. Clair County, Alabama, Pell City Division.

ALSO: The southwest one-quarter of the southeast one-quarter of the southwest one-quarter of the northwest one-quarter AND the southeast one-quarter of the southwest one-quarter of the southwest one-quarter of the northwest one-quarter of Section 30, Township 16 South, Range 2 East, St. Clair County, Alabama, Pell City Division.

ALSO: The northwest one-quarter of the southeast one-quarter of the southwest one-quarter of the northwest one-quarter of Section 30, Township 16 South, Range 2 East, LESS AND EXCEPT, a 25 foot easement for roadway on the south and east sides of said property, St. Clair County, Alabama, Pell City Division.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Moody is on file in the office of the Judge of Probate in St. Clair County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:00 P.M.

Act No. 94-697

H. 730 – Reps. Clark (W), Buskey

AN ACT

To amend Section 11-43C-40, Code of Alabama 1975, to provide further for the appropriations for the salaries of personnel employed by the mayors of certain Class 5 Municipalities.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-43C-40, Code of Alabama 1975, is amended to read as follows:

“§11-43C-40.

“The mayor may employ additional personnel who shall serve at the pleasure of the mayor, and for such purposes an additional seventy five thousand dollars (\$75,000) per annum shall be made available for the salaries of the personnel from the city treasury. The personnel shall not be subject to the the merit system. This section shall not limit the authority of the mayor to appoint other employees of the city under the merit system or otherwise where authorized by any other law.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:01 P.M.

Act No. 94-698

H. 502 – Rep. Harper

AN ACT

To amend Section 12-17-94, Code of Alabama 1975, relating to the duties of the circuit clerks; to provide an additional duty of monitoring court orders directed at criminal defendants relating to fines, court costs, and other court-ordered monies; and to make a conditional appropriation to the Unified Judicial System.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 12-17-94, Code of Alabama 1975, is amended to read as follows:

“§12-17-94.

“(a) The duties of the clerks of the circuit court include all of the following:

“(1) To sign and issue all summons, subpoenas, writs, executions, and other processes, under the authority of the court.

“(2) To keep a consolidated docket sheet of civil and criminal cases, the names of the parties, the character of action or offense, the names of the attorneys and the sheriff's return, which shall be entered in all civil and criminal cases standing for trial, in the order in which they are brought, and the bench notes, orders, rulings on motions and pleadings, other preliminary matters and final judgment which have been made in each case by the judge, which shall be the official minutes.

“(3) To keep all papers, books, dockets, and records belonging to their office with care and security, with the papers filed, arranged, numbered, and labeled, so as to be of easy reference, and the books, dockets and records properly lettered. Parties shall be allowed to inspect the records free of charge.

“(4) To make out and deliver, on application and payment of the legal fees therefor, to any person applying for the same, a correct transcript, properly certified, of any paper or record in their offices.

“(5) To exercise such duties as are, or may be, conferred upon them by law, including administrative rules promulgated by order of the supreme court of Alabama.

“(6) To monitor compliance with court orders issued by a state court which assess court costs, fines, and other related court-ordered money against criminal defendants and to utilize accounts receivable systems and other procedures, including notice processes, to ensure payment of court-ordered money.

“(b) Any clerk of any circuit court who fails to perform any duty imposed on him or her, for the failure to perform which no

other punishment is provided, shall, on conviction, be fined not exceeding \$200.00.”

Section 2. Any increased receipts from collections of court costs and fines resulting from enactment of this bill into law shall be deposited as currently provided by law.

Section 3. There is hereby appropriated to the Unified Judicial System from the State General Fund, in addition to any other funds otherwise appropriated to the Unified Judicial System, \$405,000 for the fiscal year ending September 30, 1995, to be conditioned upon enactment into law of House Bill 79 or Senate Bill 274.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:02 P.M.

Act No. 94-699

H. 654 – Rep. Holladay

AN ACT

To amend Section 8-22-16, Code of Alabama 1975, to provide that 30 percent of any penalties collected in an action to enforce the provisions of the act brought by a district attorney shall go to the office of the district attorney which brought the action.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 8-22-16, Code of Alabama 1975, is amended to read as follows:

“§8-22-16.

“(a) Any person who violates this chapter shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) per violation for each offense. Any such person shall also be liable for attorney fees and shall be subject to injunctive relief. Each day that a violation of this chapter occurs shall be considered as a separate violation.

“(b) The penalty may be assessed and recovered in a civil action brought by the Attorney General, or by any district attorney in any court of competent jurisdiction. If brought by a district attorney, 30 percent of the penalty shall be paid to the office of the district attorney which brought the action and 70 percent of the penalty shall be paid to the treasury of the county in which the judgment was entered. If brought by the Attorney General, one-half of the penalty

shall be paid to the treasury of the county where the action was brought and one-half shall be paid to the state treasury."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:03 P.M.

Act No. 94-700

H. 930 – Rep. Black (L)

AN ACT

Relating to Sumter County; to amend Section 2 of Act No. 90-612, H. 961, 1990 Regular Session (Acts 1990, p. 1124), relating to hazardous waste disposal fees; to provide that the trustees may invest the proceeds from the fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 90-612, H. 961, 1990 Regular Session (Acts 1990, p. 1124), is amended to read as follows:

"Section 2. Any and all fees received by the county from the disposal of hazardous waste in the county received pursuant to Section 22-30B-2, Code of Alabama 1975, and Act No. 90-326, H. 310, 1990 Regular Session, shall be distributed as follows:

"(a) Forty percent shall be placed in an irrevocable trust fund named 'The Sumter Trust for the Future.' After the trust and interest accrued has reached a balance of seven million dollars, the trustees of the trust may distribute sums to the Sumter County Board of Education and the County Commission as long as the balance in the trust does not decrease below seven million dollars. If the monies from hazardous waste disposal fees to various agencies in Sumter County decrease to less than one-half the sums received in the year preceding April 1, 1990, the trustees may distribute, in their discretion, to any Sumter County Agency receiving monies from the hazardous waste disposal fees generated in Sumter County regardless of the sum in the trust fund. There shall be three trustees to administer the trust fund created by this act. The trustees shall be appointed by the legislative delegation representing Sumter County to staggered three-year terms. The initial trustees shall be appointed as follows: One for a one-year term; one for a two-year term; and one for a three-year term. Thereafter each shall be appointed for three years. The trustee may invest the proceeds from the hazardous waste in any direct obligations of the United States of America, the obligations of any agency of the United States of America, interest-bearing bank deposits, and any securities the payment of the principal and

interest on which is fully secured by direct obligations of the United States of America or in any obligations in which municipal or county funds are authorized to be invested pursuant to Section 11-81-21 of the Code of Alabama 1975.

“(b) Five and one-half percent to the law enforcement task force to help fund efforts to prevent drug abuse.

“(c) Three and one-half percent to Livingston University to be used for classes involving the disposal and treatment of hazardous waste.

“(d) One percent to the Tombigbee Hospice.

“(e) Five percent to the Sumter County Emergency Medical Service, provided there is a countywide EMS agency.

“(f) Twenty percent to the County Board of Education.

“(g) Fifteen percent to the Sumter County Commission.

“(h) Two percent to the Sumter County Commission for distribution to Child Day Care Programs.

“(i) Four percent to the Sumter County Commission for the Fire Fighters Association for distribution to volunteer fire department districts.

“(j) One percent to be divided equally between the municipalities of Emelle and Geiger because of their proximity to the hazardous waste facility.

“(k) Two percent to the Sumter County Commission for health purposes in Sumter County other than hospitals and the health department.

“(l) One percent to the Federation of Southern Cooperative/Land Assistance Fund for development of youth.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:04 P.M.

Act No. 94-701

H. 929 – Rep. Warren

AN ACT

Relating to Monroe County; providing for an additional expense allowance and salary for the coroner.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing on the first day of the month immediately following the effective date of this act, the Coroner of Monroe County shall be entitled to an additional expense allowance in the amount of \$2,400 per annum, which shall be in addition to all other expense allowances, compensation, or salary provided by law. This expense allowance shall be payable in equal monthly installments from the general fund of the county.

Section 2. Beginning with the expiration of the term of the incumbent coroner, the annual salary for the coroner shall be increased by \$2,400 per annum, payable in equal monthly installments from the general fund of the county and at that time, Section 1 shall become null and void.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved May 4, 1994

Time: 1:05 P.M.

Act No. 94-702

H. 679 – Rep. Parker (T)

AN ACT

To amend Section 36-21-66 of the Code of Alabama 1975, to provide further for the investment authority and policies of the Board of Commissioners of the Alabama Peace Officers' Annuity and Benefit Fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-21-66, Code of Alabama 1975, is amended to read as follows:

“§36-21-66.

“A special fund is established and placed under the management of the board for the purpose of providing retirement allowances and other benefits under this article for members of the fund. The fund shall be known as the Alabama peace officers' annuity and benefit fund, by and in which name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purposes for which received. All amounts received by the board pursuant to this article shall be paid into the fund. The board shall have such control of the fund as shall not be inconsistent with this article and with the laws of the state. All moneys of the board shall either be deposited into the state treasury or in a special trust account or

accounts in any bank or banks in the state, each of which shall have a combined capital and surplus of not less than two million dollars (\$2,000,000) and may be withdrawn therefrom by vouchers or checks signed by the executive director pursuant to authorization given by the board. All investments of moneys in the fund shall be either deposited with the state treasurer for safekeeping upon receipt of the state treasurer therefor or deposited with any bank in a custodial account. The board may expend moneys in the fund in accordance with this article and to invest any moneys received pending other needs therefor in any investments in those classes of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds, or other investments as the board, or its agents as the agents are authorized to act on behalf of the board, may, from time to time, approve with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with investment matters would use in the conduct of an enterprise of a similar character and with similar aims and objectives. The board may enter into contracts with registered investment advisors pursuant to which custody of the assets of the fund are delivered to the advisor which shall invest and reinvest the assets for the benefit of the fund in investments permitted under this section. The selection of the investment shall be totally in the discretion of the registered investment advisor subject only to guidelines established by the board. For purposes of this section, a registered investment advisor is a person or entity registered as an investment advisor under Section 8-6-3(b), Code of Alabama 1975, as amended. No member of the board shall have any interest in any investment or receive any commission with respect thereto."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:06 P.M.

Act No. 94-703

H. 324 – Rep. Harper

AN ACT

To amend Section 41-9-252, Code of Alabama 1975, to provide for an executive director, assistant director, and staff to perform educational, promotional, and fund-raising functions relating to the Old Cahaba Capitol Site.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-9-252, Code of Alabama 1975, is amended to read as follows:

“§41-9-252.

“(a) There is established an advisory committee to be known as the Cahaba advisory committee, composed of 16 members, 15 of whom shall be appointed by the governor. The judge of probate of Dallas county shall be the sixteenth member but shall be a member ex officio and shall not be entitled to a vote on the advisory committee. The members shall serve for terms of seven years each, and the judge of probate shall serve throughout his or her term of office. Members of the advisory committee shall be appointed so that each congressional district is represented by one appointed member on the advisory committee; except, that the congressional district in which Cahaba is situated shall be represented by eight appointed members, five of whom shall be residents of Dallas county and three of whom shall be from some other county in the congressional district. Members of the advisory committee shall serve without compensation other than payment of a per diem allowance and travel expenses incurred in attending meetings or in performing any actual service under the direction of the advisory committee. Expenses shall be paid in accordance with article 2 of chapter 7 of Title 36, after approval by the chairperson of the committee. The chairperson shall establish and maintain a bank account on behalf of the advisory committee and draw warrants for any lawful expenditures. The advisory committee shall advise the Alabama historical commission regarding the restoration and the development of the Old Cahaba Capitol Site.

“(b) The chairperson of the advisory committee, with the approval of a majority of the committee members, may appoint an executive director. The executive director shall not be a member of the state classified service.

“(c) The executive director shall be compensated by a salary payable out of the State Treasury from any funds available to the advisory committee in the manner that the salary of other state officials are paid. The exact amount of the executive director's salary shall be set by the advisory committee, but in no event shall the salary be less than 60 percent nor more than 75 percent of the amount set as the standard compensation for cabinet level officials of the state.

“(d) The executive director may hire an assistant director and such staff, at the pleasure of the executive director, as deemed necessary, with the approval of the advisory committee, but without regard to the state merit system. The advisory committee shall approve all staff member hired and their job descriptions, and

shall set the rate of pay or compensation due the assistant director and other staff.

“(e) The executive director, assistant director, and staff of the advisory committee shall be provided all the rights, privileges, benefits, and protections as are provided other non-classified state employees, including, but not limited to, retirement, deferred compensation plans, health insurance, leave, holidays, and travel and per diem expenses.

(f) It is the duty of the advisory committee, acting through its executive director, assistant director, and staff to perform the following duties:

(1) To provide statewide public awareness, public information, and education services regarding the Old Cahaba Capitol Site.

(2) To solicit, collect, and receive funds from the public and private sectors for the support, maintenance, and preservation of the Old Cahaba Capitol Site.

(3) To promote and encourage public and private efforts to benefit the Old Cahaba Capitol Site project.

(g) Additionally, the executive director, assistant director and staff shall perform those duties required by the advisory committee necessary to implement this section.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:07 P.M.

Act No. 94-704

H. 527 – Rep. McDowell

AN ACT

To amend Sections 15-25-1, 15-25-3, 15-25-30, 15-25-31, and 15-25-39, Code of Alabama 1975, so as to provide that in criminal proceedings involving physical offenses against a child, the victim and witnesses be treated in the same manner as for certain children under the age of 16 involving sexual abuse, sexual offenses, and sexual exploitation, relating to testifying, use of electronic equipment, court appearances, and admissibility of certain evidentiary matters of a material nature.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 15-25-1, 15-25-3, 15-25-30, 15-25-31, and 15-25-39, Code of Alabama 1975, are amended to read as follows:

“§15-25-1.

“In any criminal prosecution for a physical offense or a sexual offense wherein the alleged victim is a child under the age of 16 years and in any criminal prosecution involving the sexual exploitation of a child under the age of 16, the court may allow leading questions at trial by the prosecution or defense of any victim or witness in a case who is under the age of 10, if the court determines that the allowance of leading questions will further the interests of justice. The court may on motion of the prosecution or the defense, or on its own motion, limit the scope and extent of any leading questions.”

“§15-25-3.

“(a) In those criminal prosecutions set out in section 15-25-1, the court may, on motion of the state or the defendant prior to the trial of the case, order that the testimony of any alleged victim of the crime or witness thereto who is under the age of 16 at the time of the order shall be viewed and heard at trial by the court and the finder of fact by closed circuit equipment. In ruling on the motion the court shall take into consideration those matters set out in section 15-25-2. If the court orders that the victim’s or witness’s testimony in court shall be by closed circuit equipment, the testimony shall be taken outside the courtroom in the judge’s chambers or in another suitable location designated by the judge. Examination and cross-examination of the alleged child victim or witness shall proceed as though he or she were testifying in the courtroom. Present in the room with the child during his or her testimony shall be the district attorney, the defendant, and attorney, and other persons as the court in its discretion may permit taking into consideration the welfare and well-being of the child. Persons ~~operating the closed circuit equipment shall do so, where practical,~~ in an adjacent or nearby room or behind a screen or mirror that permits them to see and hear the child during the testimony, but which does not permit the child to view them. Suitable audio equipment shall be provided so as to permit the court to communicate with the parties and the witness throughout the testimony. The party making the motion that the testimony shall be by closed circuit equipment shall make all necessary arrangements regarding the equipment and the operation thereof during the course of the proceeding.

“(b) All costs incurred by the district attorney to make it possible for the court and the trier of the fact to view the testimony of the victim by closed circuit equipment as provided in this article shall be paid by the state. The district attorney shall submit all bills for costs to the state comptroller for approval and payment from the fund entitled ‘court costs not otherwise provided for.’

“(c) Notwithstanding any other provision of law or rule of evidence, a child victim of a physical offense, sexual offense, or sexual exploitation, shall be considered a competent witness and shall be allowed to testify without prior qualification in any judicial proceeding. The trier of fact shall be permitted to determine the weight and credibility to be given to the testimony. The court may also allow leading questions of the child witnesses in the interest of justice.”

“§15-25-30.

“This article shall be entitled ‘The Child Physical and Sexual Abuse Victim Protection Act.’”

“§15-25-31.

“An out-of-court statement made by a child under 12 years of age at the time of the proceeding concerning an act that is a material element of any crime involving child physical offense, sexual offense, and exploitation, as defined in section 15-25-39, which statement is not otherwise admissible in evidence, is admissible in evidence in criminal proceedings, if the requirements of section 15-25-32 are met.”

“§15-25-39.

“For purposes of this article, ‘a child physical offense, sexual offense, and exploitation’ is defined to include the following crimes, when one or more of the victims is a child under 12 years of age:

“(1) Rape in any degree.

“(2) Sodomy in any degree.

“(3) Sexual abuse in any degree.

“(4) Sexual misconduct.

“(5) Enticing a child to enter a vehicle, room, house, office, or other place, for immoral purposes.

“(6) Any crime involving the production of child pornography.

“(7) Torture and willful abuse of a child under 18 years of age by responsible person as defined in Section 26-15-3.

“(8) Sexual torture as defined in Section 13A-6-65.1.

“(9) Attempted murder.

“(10) Assault first degree.

“(11) Assault second degree.

“(12) Assault third degree.

“(13) Harassment.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:08 P.M.

Act No. 94-705

H. 487 – Rep. Box

AN ACT

To amend Sections 26-17-5, 26-17-6, 26-17-10, 26-17-12, 26-17-13, and 26-17-15, Code of Alabama 1975, the Uniform Parentage Act, and to add a new code section to the Uniform Parentage Act, to provide further for the procedures for the establishment of paternity by: (1) providing for the execution of affidavits of paternity; (2) creating a presumption of paternity upon execution of voluntary affidavits; (3) providing default judgments under specific circumstances; (4) providing further for genetic testing; (5) creating a rebuttable presumption of paternity where genetic testing results indicate a certain probability of paternity; (6) providing for the admission of genetic testing results unless objections are filed under certain procedures; (7) providing for full faith and credit to other states paternity acknowledgments and orders; and (8) establishing a hospital paternity acknowledgment program.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 26-17-5, 26-17-6, 26-17-10, 26-17-12, 26-17-13, and 26-17-15, Code of Alabama 1975, are amended to read as follows:

“§26-17-5.

“(a) A man is presumed to be the natural father of a child if any of the following apply:

“(1) He and the child’s natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court.

“(2) Before the child’s birth he and the child’s natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

“a. If the attempted marriage may be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after the termination of the attempted marriage by death, annulment, declaration of invalidity, or divorce; or

"b. If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

"(3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with the law although the attempted marriage is or could be declared invalid, and

"a. He has acknowledged his paternity of the child in writing, the writing being filed with the appropriate court or the bureau of vital statistics; or

"b. With his consent, he is named as the child's father on the child's birth certificate; or

"c. He is otherwise obligated to support the child either under a written voluntary promise or by court order.

"(4) While the child is under the age of majority, he receives the child into his home or otherwise openly holds out the child as his natural child; or.

"(5) He acknowledges his paternity of the child in a writing filed in accordance with provisions of the legitimation statute.

"(6) He and the child's mother have executed an affidavit of paternity in accordance with the provisions of this chapter.

"(b) A presumption of paternity under this section may be rebutted in an appropriate action only by clear and convincing evidence. In the event two or more conflicting presumptions arise, that which is founded upon the weightier considerations of public policy and logic, as evidenced by the facts, shall control. The presumption of paternity is rebutted by a court decree establishing paternity of the child by another man.

"§26-17-6.

"(a) A child, a child's natural mother, or a man presumed to be the child's father under subdivision (1), (2), or (3) of Section 26-17-5(a), may bring an action within five years of the birth of the child for the purpose of declaring the existence of the father and child relationship presumed under subdivision (1), (2), or (3) of Section 26-17-5(a); or

"(b) Any interested party may bring an action at any time for the purpose of determining the existence or non-existence of the father and child relationship presumed under subdivision (4) or (5) or (6) of Section 26-17-5(a).

"(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 26-17-5 may be brought by the child, the mother, or personal representative of the child, the public authority chargeable

by law with support of the child, the personal representative or a parent of the mother if the mother has died, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

“(d) If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

“(e) If the child has been adopted, an action may not be brought.

“§26-17-10.

“(a) The causes of action provided by this chapter shall be brought in the juvenile or family court division of the district or circuit court and wherever used in this chapter the word “court” shall mean the juvenile or family court division of the district or circuit court and specifically shall include any district or circuit court judge otherwise sitting in one of these divisions.

“(b) A defendant who resides in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this chapter.

“(c) A person who is a nonresident of this state and who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this chapter with respect to a child who may have been conceived by that act of sexual intercourse. Jurisdiction over a nonresident may be acquired only by personal service of summons outside this state or by certified mail with proof of actual receipt.

“(d) A defendant who resides in this state thereby submits to the jurisdiction of the courts of this state as to a uniform reciprocal enforcement of support action filed in this state by an initiating state for the purpose of establishing paternity. If the defendant asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both parties are present at the hearing or if proof required in the case indicates the presence of either or both is not necessary, the court shall adjudicate the issue of paternity. The appropriate provisions of this chapter shall apply to such actions. Upon determination of paternity or nonpaternity, the appropriate sections of the Reciprocal State Enforcement of Duty to Support Act (§ 30-4-80 et seq.) shall apply.

“(e) The court shall retain jurisdiction of the cause for the purpose of entering such other and further orders as changing circumstances of the parties may in justice and equity require.

“(f) The complaint for paternity or nonsupport shall be filed in the county in which the child resides or the county in which the defendant resides.

“(g) Process directed to the defendant shall issue forthwith requiring the defendant to file written pleadings to the complaint in the manner prescribed by appropriate court rules. Once service of process is executed, if any defendant fails to file his or her answer or otherwise appear in an action commenced under this section within the time period prescribed by law, the Alabama Rules of Civil Procedures, or as ordered by the court, the court shall enter an order of default against him or her upon proper request and proof of the allegations.

“(h) The court in which the action originated shall determine both the law and the facts without the intervention of a jury. A trial by jury may be had only as provided under Section 26-17-20.

“§26-17-12.

“(a) Upon application of the defendant in a paternity proceeding or any other party to the action, the court shall order the mother, child and defendant to submit to one or more genetic tests to assist the court in determining paternity of the child. Whenever the court orders any genetic test to be performed and any of the persons whose genetic sample is to be taken and tested refuses to submit to the test, that fact shall be disclosed upon the trial, unless good cause is shown for not doing so.

“(b) Any tests shall be made by an expert qualified in genetic testing who shall be approved by the court. The expert may be called by the court or any party as a witness to testify to the genetic test results and shall be subject to cross-examination by the parties. The genetic test results may be admitted into evidence by the defendant, the plaintiff, or the state. Genetic testing methods include, but are not limited to, the human leukocyte antigen test. If more than one genetic test is performed and the results are conflicting, none of the genetic test results shall be admissible as evidence of paternity or nonpaternity.

“(c) Any objection to the admission into evidence or objection to the reliability of any genetic testing results performed on the parties shall be made in writing by the party contesting the admission at least 15 days prior to any hearing at which the results may be introduced into evidence. In the event the results of any genetic test are not made available in time for the party to submit a written objection as provided above, the court shall grant a request for continuance of the proceedings to allow the party adequate time to make a proper objection under this section. If the results of any test were available to a party in time for the party to object to the

genetic test results within 15 days and no objection was made, or if a request for a continuance is not made prior to or at the hearing as provided in the preceding sentence, the test results shall be admissible into evidence without the need for foundation testimony or any other proof of authenticity or accuracy.

“(d) Compensation of each expert witness shall be paid as the court shall order. The court shall order said compensation to be paid prior to the administration of the genetic test.

“§26-17-13.

“(a) Evidence relating to paternity may include any of the following:

“(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception.

“(2) An expert’s opinion concerning the statistical probability of the alleged father’s paternity based upon the duration of the mother’s pregnancy.

“(3) Genetic test results, weighed in accordance with evidence, if available, of the statistical probability of the alleged father’s paternity. Genetic test results which indicate a 97 percent or greater probability that the alleged father is the biological or natural father of the minor child shall create a presumption of paternity that the alleged father is in fact the father of the child. This presumption may be rebutted only by clear and convincing evidence.

“(4) Medical or anthropological evidence relating to the alleged father’s paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests.

“(5) All other evidence relevant to the issue of paternity of the child.

“(b) Upon refusal of any witness, including a party, to testify under oath or produce evidence, or submit to genetic testing, the court may order him to testify under oath and produce evidence, including genetic testing, concerning all relevant facts. If the refusal is upon the ground that his testimony or evidence might tend to incriminate him, the court shall grant him immunity from all criminal liability on account of the testimony or evidence he is required to produce. An order granting immunity bars prosecution of the witness for any offense shown in whole or in part by testimony or evidence he is required to produce, except for perjury committed in his testimony. The refusal of a witness, who has been

granted immunity to obey an order to testify or produce evidence shall be punishable as a civil contempt of the court.

“(c) In an action against an alleged father, evidence offered by the alleged father with respect to another man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if the alleged father has undergone and made available to the court genetic tests the results of which do not exclude the possibility of the alleged father’s paternity of the child. A man who is identified and is subject to the jurisdiction of the court shall be made a defendant in the action.

“§26-17-15.

“(a) If the existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter, prior law or applicable sections of the criminal code, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the public authorities that have furnished or may furnish the reasonable expenses of pregnancy, confinement, education, or support, or by any other person, including a private agency, to the extent these expenses have been or are being furnished.

“(b) Pursuant to the Uniform Enforcement of Foreign Judgments Act, Sections 6-9-230 et seq., Code of Alabama 1975, a court in this state shall give full faith and credit to a paternity determination of any other state whether established through voluntary acknowledgment, administrative processes, or judicial process which paternity determination shall be enforced and otherwise treated in the same manner as a paternity determination of this state.

“(c) The court shall order payments to be made to a person, corporation, agency designated to administer them under the supervision of the court, or the public authority which has furnished or may furnish support for the child including but not limited to monetary and medical payments.

“(d) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All sanctions for enforcement of judgments apply.”

Section 2. The following code section shall be added to the Code of Alabama 1975:

Section 26-17-22.

(a) The natural mother and father of a child born to a woman who was unmarried at the time of birth and had not been married

or attempted to be married within 300 days prior to the birth may, at any time and place prior to the child's 19th birthday, state and acknowledge that they are the natural parents of the child in an affidavit of paternity signed by both parties before a notary public. The affidavit shall be on a form prescribed by rule of court and shall include the Social Security number and current address of each parent, a listing of the rights and responsibilities of acknowledging paternity, including the duty to financially support the child, and instruction for filing the affidavit with the Office of Vital Statistics.

(b) The affidavit of paternity shall be a legally sufficient basis for establishing an obligation for child support and for the expenses of the mother's pregnancy and confinement. The affidavit may be admitted as evidence of paternity in any action to establish a support order or an adjudication of paternity.

(c) Hospitals that have a licensed obstetric care unit or are licensed to provide obstetric services or licensed birthing centers associated with a hospital shall provide to the mother and alleged father, if he is present in the hospital, during the period immediately preceding or following the birth of a child to an unmarried woman in the hospital, all of the following: (1) Written materials about paternity establishment. (2) Form affidavits of paternity for the purposes of subsection (a) above. (3) A written description of the rights and responsibilities of acknowledging paternity. (4) An opportunity, prior to discharge from the hospital, to speak with a trained person made available through the Department of Human Resources, either by telephone or in person, who can clarify information and answer questions about paternity establishment. The Department of Human Resources shall make materials available without cost to the hospitals. If the mother and father complete the affidavit in the hospital, the hospital shall send the affidavit of paternity to the Office of Vital Statistics with required birth certificate information within five days of the birth of the child. Hospitals may be reimbursed by the Department of Human Resources up to the amount allowable by federal regulations for each completed affidavit. A hospital shall be immune from civil or criminal liability for actions taken pursuant to the requirements of this section.

(d) Notwithstanding any law to the contrary, the affidavit of paternity shall be accepted by the Office of Vital Statistics for purposes of listing the father's name on the child's birth certificate.

(e) If a birth certificate has been filed in the Office of Vital Statistics, listing a father of the child, no new birth certificate can be established by the Office of Vital Statistics based on an affidavit of paternity received subsequently by that office unless a determination of paternity has been made by a court of competent jurisdiction or following adoption.

(f) The affidavit of paternity shall be released by the Office of Vital Statistics to the Department of Human Resources upon request by the department and payment of any fee required by the Office of Vital Statistics for the purpose of child support enforcement or any other lawful purpose without the necessity of a court order.

Section 3. This act shall be effective July 1, 1994.

Approved May 4, 1994

Time: 1:09 P.M.

Act No. 94-706

H. 810 – Rep. Holley

AN ACT

To provide for the installation of certain types of liquefied petroleum gas room heaters in certain residences and used manufactured homes under certain conditions.

Be It Enacted by the Legislature of Alabama:

Section 1. For the purposes of this act, the following words shall have the following meanings:

(1) LP-GAS. Liquefied petroleum gas as defined in Section 9-17-100, Code of Alabama 1975.

(2) USED MANUFACTURED HOME. A manufactured home which is not being sold or offered for sale as new, is not the first purchase of the manufactured home, and is used for residential purposes.

Section 2. The following LP-Gas room heaters may be installed in a residence that is a one- or two-family dwelling and that is not a manufactured home (mobile home) or a modular home as provided in this section:

(1) One listed wall-mounted LP-Gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a residential one-or two-family dwelling provided that the input rating shall not exceed 6000 BTU per hour and combustion and ventilation air is provided in accordance with paragraph 6.1(b) of the National Fuel Gas Code, NFPA 54.

(2) One listed wall-mounted LP-Gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a residential one-or two-family dwelling provided that the input rating shall not exceed 10,000 BTU per hour and combustion and ventilation air is provided as specified in paragraph 6.1(b) of the National Fuel Gas Code, NFPA 54.

Section 3. The following LP-Gas room heaters may be installed in a used manufactured home as follows:

LP-Gas listed vented room heaters equipped with a 100 percent safety pilot and a vent spill switch or LP-Gas listed unvented room heaters equipped with factory equipped oxygen depletion safety shut-off systems may be installed in a used stationary manufactured home (mobile home) but not in sleeping quarters or bathrooms in the manufactured home (mobile home) when the installation of the heater is not prohibited by the appliance manufacturer and when the input rating of the room heater does not exceed 20 BTU per hour per cubic foot of space and combustion and ventilation air is provided as specified in Section 5.3 of the National Fuel Gas Code, NFPA 54. All room heaters installed pursuant to this subsection shall be securely anchored to the wall or floor.

Section 4. This act shall be enforced by the Liquefied Petroleum Gas Board.

Section 5. Any reference to the National Fuel Gas Code, NFPA 54, shall include any future changes to the code when adopted by the Liquefied Petroleum Gas Board.

Section 6. This act shall preempt any local law or any ordinance or authority of any local governing body to regulate the subject matter of this act and no local law or ordinance or authority of any local governing body shall supersede this act.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 8. All laws or parts of laws which conflict with this act are repealed.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:10 P.M.

Act No. 94-707

H. 626 – Rep. Lindsey

AN ACT

To authorize any district organized pursuant to Chapter 89 of Title 11 of the Code of Alabama 1975, to carry out one or more, but not all, of its authorized services through one or more corporations organized pursuant to this act; to provide for

the incorporation of the corporations and the powers thereof and the election of the directors for the corporations and the management of their affairs; to provide for the incorporation by reference and applicability of the definitions contained in Section 11-89-1 of the Code of Alabama 1975, and the powers and other provisions contained in Sections 11-89-7 to 11-89-19, inclusive, of Chapter 89 of the Code of Alabama 1975 for the corporations; to provide for the duration and dissolution of the corporations; to provide for severability and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. LEGISLATIVE FINDINGS. The Legislature finds and determines that it is necessary and desirable to enable districts in existence to exercise their powers in a more efficient manner which does not interfere with their existing operations or confuse their management functions, accounting and other records. The Legislature deems that special corporations may be necessary in certain areas for services to be expanded by districts to the fullest extent possible.

Section 2. DEFINITIONS. All definitions in Section 11-89-1, Code of Alabama 1975, are incorporated in this act by reference, except that "district" shall also mean in this act any district which is operating under this act. Moreover, where used in this act, the words "special corporation" shall mean any corporation organized pursuant to this act.

Section 3. PROCEDURE TO FORM SPECIAL CORPORATION.

(a) In order to provide for operation and financing of one or more, but not all, of its authorized services under Chapter 89, Title 11, Code of Alabama 1975, by following the procedures set out in this act, any district may establish a separate public corporation and grant to it the power to finance and operate any, but not all, of the authorized services of the district. If any district may, by its certificate of incorporation, provide more than one of fire protection service, sewer service, or water service in its service area, it may provide that any one or more of the services, but not all of them, may be operated and financed through a special corporation organized pursuant to this act. The procedure to organize a special corporation is as follows: The board shall adopt a resolution specifying that it is necessary or expedient that a special corporation be organized pursuant to this act to operate and finance one or more, but not all, of the services of the district in connection with a water system, sewer system, or fire protection facilities. The services to be exercised by the special corporation shall be expressly referred to in the resolution. The board shall authorize three persons who reside in the proposed service area of the special corporation to proceed to organize the special corporation. Each of these persons shall submit to the board the proposed certificate of incorporation of the special corporation, together with the certificate of the Secretary of State of

the State of Alabama that the name proposed for the special corporation is not identical to that of any other corporation organized under the laws of this state or so similar thereto as to lead to confusion or uncertainty. The certificate of the Secretary of State shall be made an exhibit to the proposed certificate of incorporation and shall be recorded therewith. The board shall approve the certificate of incorporation and authorize it to be recorded. The certificate of incorporation shall be executed by each of the three persons designated as organizers and recorded in the office of the judge of probate of the county in which the certificate of incorporation of the district was recorded. The certificate of incorporation need not be recorded in any other office, even though it is proposed that the special corporation shall operate in more than one county.

(b) The certificate of incorporation of the special corporation shall state the following:

(1) The names of the persons forming the special corporation and a statement that each of them resides in the proposed service area of the special corporation.

(2) The period for the duration of the special corporation. If the duration is to be perpetual, subject to termination upon termination of the district, that fact shall be stated.

(3) The name of the district, together with the date on which the board of the district approved the certificate of incorporation.

(4) A statement of the type or types of service proposed to be rendered by the special corporation.

(5) Whether the service or services will be rendered throughout the entire service area of the district, or in a smaller service area. If the service or services will be rendered throughout the entire service area, no legal description need be set forth in the certificate of incorporation. If the service or services are to be rendered in a smaller service area, a concise legal description in the certificate of incorporation of the area or areas in which the special corporation proposes to render its service or services is required. In no event, shall the service area of a special corporation include any area not in the service area of the district.

(6) Any other matters relating to the special corporation that the incorporators may choose to insert and that have been approved by the board.

(c) If the special corporation is empowered to issue bonds, the certificate of incorporation shall contain a provision that prohibits any bonds from being issued unless the total principal amount, final maturity date, and applicable interest rate or rates of the bonds have been approved by the board.

Section 4. CLARIFICATION OF POWERS.

(a) In addition to the powers granted to the special corporation, it is provided that if the special corporation is to operate a sewer system to provide for the collection, transportation, treatment, storage, or disposal of solid wastes, such a system may include, in addition to the facilities set out in the definition of "sewer system" in Section 11-89-1 of the Code of Alabama 1975, barges, boats, towboats, transfer facilities, and such licenses, grants, agreements, contracts, and franchises as may be necessary or desirable for the conduct of the system. Also, the special corporation may contract with any municipality located in whole or in part in any county in which any part of the service area of the special corporation lies, for the collection, transfer, transportation, treatment, storage, or disposal by the special corporation of solid wastes within the municipality.

(b) The certificate of incorporation may incorporate by reference and grant to the special corporation, with the necessary changes in detail, all powers of the district which are provided in Section 11-89-7 of the Code of Alabama 1975, by reference to that code section without specific enumeration of the powers, and the district may delegate to the special corporation any or all of the powers of the district contained in the code section with respect to the service or services to be rendered by the special corporation, including, without limitation, the power of eminent domain.

Section 5. DIRECTORS. Upon filing the certificate of incorporation and the certificate of the Secretary of State in the office of the judge of probate as provided in Section 3 of this act, the special corporation shall come into existence. The corporation shall have three directors. The directors shall be elected by the board for staggered terms so that one director shall serve an initial term of two years, one director shall serve an initial term of four years, and one director shall serve an initial term of six years. Thereafter, all directors shall serve six-year terms. Any director of the special corporation shall serve until his or her successor is elected and qualified. No director of the special corporation may be an officer of any municipality, county, or the State of Alabama, nor may any director of the special corporation be a director of the district. Each director shall reside in the service area of the special corporation as set forth in its certificate of incorporation. No director may be removed from office, except by virtue of ceasing to reside in the service area or by impeachment as provided in Section 11-89-6, Code of Alabama 1975.

Section 6. DURATION. No special corporation shall have a duration longer than the duration of the district which brought it into existence and authorized its incorporation. The special corporation

shall stand dissolved when the district is dissolved pursuant to Chapter 89 of Title 11, Code of Alabama 1975.

Section 7. DISSOLUTION. Upon dissolution of a special corporation, all assets of the corporation shall be vested in the district. The dissolution may occur by expiration of the corporate life of the special corporation by the terms of its certificate of incorporation, or by adoption of a resolution to dissolve by the board of directors of the special corporation, if it has no bonds outstanding.

Section 8. ACCEPTANCES. Each special corporation may accept loans, grants, gifts, and any contributions from any public or private entity.

Section 9. INCORPORATION OF OTHER POWERS. Sections 11-89-8 to 11-89-19, inclusive, Code of Alabama 1975, which are applicable to a district shall be applicable, with the necessary changes in detail, to a special corporation, except that no special corporation created by this act shall create another special corporation under this act.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:11 P.M.

Act No. 94-708

H. 463 – Reps. Drake, Goodwin, Anderson,
Holley, Buskey, Clark (W)

AN ACT

To provide for commemorative motor vehicle tags for certain educators; to appropriate certain fees for the tags to the Penny Trust Fund; to establish an advisory committee for the design of the tag; to provide that the cost and additional fees for the commemorative license tags be paid from the net proceeds to the Department of Corrections; and to provide that the extra fees spent on the commemorative license tags shall be a charitable deduction.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Owners of motor vehicles who are residents of Alabama and who are receiving monthly retirement checks from the Teachers' Retirement System of Alabama, or who are receiving

monthly retirement checks from an education retirement pension program from any other state, shall be eligible to apply for and receive "Retired Educator" commemorative or personalized license tags or plates as provided in this act. Owners of motor vehicles who are residents of Alabama and who are currently employed by a public education school system, college, university, institution, or who are active and contributing members of the Teachers' Retirement System, or who are employed by the State Department of Education, shall be eligible to apply for and receive "Educator" commemorative or personalized license tags or plates as provided in this act.

An applicant to receive a "Retired Educator" or "Educator" commemorative or personalized license tag or plate for private passenger or motor vehicles shall meet the following criteria:

(1) Apply to the appropriate judge of probate or commissioner of licenses as the case may be.

(2) Comply with the state motor vehicle laws, relating to registration and licensing of motor vehicles.

(3) Pay the regular license fee for license tags or plates as provided by law for private passenger or pleasure motor vehicles.

(4) Pay an additional annual fee of twenty-five dollars (\$25) for the "Retired Educator" tag or license plate and fifty dollars (\$50) for the "Educator" tag or license plate.

(5) Present documentation or certification to the appropriate judge of probate or commissioner of licenses, as the case may be, that the applicant is either receiving a monthly allotment as a retired education employee; or, in the case of "Educator" tags or license plates, is currently employed in public education as provided in this section.

(b) Upon meeting all of the criteria, the applicant shall be issued a personalized motor vehicle license tag or plate upon which, in lieu of the numbers prescribed by law, shall be inscribed special letters, figures, numbers, or other marks, emblems, symbols, or badges of distinction or personal prestige, or combination thereof, as are approved for and assigned to the application by the State Department of Revenue.

(c) The distinctive commemorative tags provided for in this act shall be issued, printed and processed in the same manner as other personalized tags in Section 32-6-150, Code of Alabama 1975. The distinctive commemorative tags shall be valid for five years and shall be replaced at the end of the period with conventional tags or other personalized tags. Payment of the required motor vehicle license fees and taxes for the years during which a

new vehicle license plate is not issued shall be evidenced as provided for in Section 32-6-63, Code of Alabama 1975.

(d) The Commissioner of Revenue shall approve the distinctive design of the tags or plates provided in this act, and the approval shall be subject to submission of the design by the Education Tag Advisory Committee, which committee shall be strictly voluntary and the members shall serve without pay or remuneration. The Education Tag Advisory Committee shall consist of three members who shall be appointed by the Alabama Education Association. The design of the distinctive tag shall be subject to approval of the Revenue Commissioner and shall comply with all applicable laws and regulations pertaining to car tags and licenses, except that Section 32-6-54, Code of Alabama 1975, shall not apply to this act.

(e) Fees collected pursuant to this act shall be transmitted timely to the State Treasurer. After payment to the Department of Corrections for its costs of manufacture and administration of the commemorative tags, the balance shall be transferred by the State Comptroller into the Penny Trust Fund established by Amendment 512 of the Constitution of Alabama of 1901, and as provided in Chapter 15A of Title 41, Code of Alabama 1975.

(f) Fees paid pursuant to this act represent a charitable contribution from the purchaser to the Penny Trust Fund.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:12 P.M.

Act No. 94-709

H. 613 – Rep. Johnson

AN ACT

To amend Section 27-14-11.1, Code of Alabama 1975, relating to certain health insurer contracts and prohibiting any provision which denies or reduces benefits based on medicaid eligibility, so as to further define private insurers and to prohibit private insurers from denying enrollment to an individual based on medicaid eligibility.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 27-14-11.1 of the Code of Alabama 1975, is amended to read as follows:

“§27-14-11.1.

“(a) For purposes of this section, ‘private insurer’ is defined as any of the following:

“(1) Any commercial insurance company offering health or casualty insurance to individuals or groups, including both experience-rated contracts and indemnity contracts.

“(2) Any profit or nonprofit prepaid plan offering either medical services or full or partial payment for the diagnosis or treatment of an injury, disease, or disability.

“(3) Any organization administering health or casualty insurance plans for professional associations, unions, fraternal groups, employer-employee benefit plans, and any similar organization offering these payments or services, including self-insured and self-funded plans.

“(4) Any health insurer, including group health plans, as defined in Section 607(1) of the Employee Retirement Income Security Act of 1974, service benefit plan, or health maintenance organization.

“(b) Any provision in an insurance contract issued or renewed after March 25, 1980, by a private insurer which denies or reduces benefits due to the eligibility of the insured to receive assistance under the medicaid program is null and void.

“(c) A private insurer may not deny enrollment to an individual because of medicaid eligibility.

“(d) The provisions of this section shall not be effective if they are found by a court of competent jurisdiction to contravene federal laws or federal regulations applicable to the medicaid program.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:13 P.M.

wages up to the maximum allowed by statute in order to pay the employee's share, if any, of premiums on the necessary health coverage; and to provide that a state agency shall be able to garnish wages or require withholding of amounts from state tax refunds to reimburse the state or custodial parent where a person has received third party payments, but has not paid these to the state agency or custodial parent when appropriate.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known as the "Medical Support Health Care Access Act."

Section 2. Definitions. As used in this act, the following terms shall have the following meanings:

(1) AGENCY. Any state agency responsible for administering programs under Title IV-D or Title XIX of the Social Security Act.

(2) INSURER. A health insurer, including a group health plan as defined in Section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, or an entity offering a service benefit plan.

Section 3. The Alabama Medicaid Agency is authorized and empowered to conduct investigations to determine whether a medical support order exists or eligibility for enrollment of a recipient in a parent's family health coverage exists. The parents of any child who is a recipient shall cooperate in this investigation. State agencies may share information regarding parentage and support orders.

Section 4. An insurer shall not deny enrollment of a child under the health coverage of the child's parent on any of the following grounds:

(1) That the child was born out of wedlock.

(2) That the child is not claimed as a dependent on the parent's federal income tax return.

(3) That the child does not reside with the parent or in the insurer's service area.

Section 5. When a parent is required by a court or administrative order to provide health coverage and the parent is eligible for family health coverage through an insurer, all of the following shall apply:

(1) The parent shall be able to enroll a child in family coverage without regard to open enrollment season restrictions.

(2) If the parent fails to enroll a child as required by court or administrative order, the child's other parent or the agency may make an enrollment.

(3) A child enrolled in health coverage pursuant to this section shall not be disenrolled unless the insurer is provided satisfactory written evidence of either of the following:

- a. The court or administrative order is no longer in effect.
- b. The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of the disenrollment.

Section 6. When a parent is required by a court or administrative order to provide health coverage and the parent is eligible for family health coverage through an employer doing business in the state, all of the following shall apply:

(1) The parent shall be able to enroll any child in family coverage without regard to open enrollment season restrictions.

(2) If the parent fails to enroll a child, the child's other parent or the agency can make the enrollment.

(3) The child shall not be disenrolled unless the employer is provided satisfactory written evidence of any of the following:

- a. The court or administrative order is no longer in effect.
- b. The child is or will be enrolled in comparable health coverage through another employer which will take effect not later than the effective date of the disenrollment.
- c. The employer has eliminated family coverage for all of its employees.

(4) The employer shall withhold from the employee's compensation the employee's share, if any, of premiums for health coverage, so long as the amount does not exceed the maximum amount allowed by law. The employer shall then pay the employee's share of premiums to the insurer.

Section 7. An insurer shall not impose any additional requirements on any state agency which has been assigned the rights of an individual eligible for medical assistance under this act and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of a covered individual.

Section 8. When a child has health coverage through the insurer of a non-custodial parent, the insurer shall do all of the following:

(1) Provide necessary information to the custodial parent in order for the child to obtain benefits through the coverage.

(2) Allow the custodial parent or the health provider, with the custodial parent's approval, to submit claims for covered services without approval from the non-custodial parent.

(3) Make payment on the submitted claims directly to the custodial parent, provider, or the agency.

Section 9. (a) The Alabama Medicaid agency may garnish the wages, salary, or other employment income of any person who is required by a court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance and has received payment from a third party for the cost of services for the child but has not used the payments to reimburse the other parent or guardian of the child, the provider of services, or the Alabama Medicaid agency for its payments made. Current or past due child support shall have priority over claims for the costs of the services.

(b) In addition to the powers granted in subsection (a), the Alabama Medicaid agency may notify the State Department of Revenue of any amounts due under this section. Upon proper and timely notice, the department shall withhold any amount from any state tax refund due to the above-described person.

Section 10. All laws or parts of laws which conflict with this act are repealed.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 4, 1994

Time: 1:14 P.M.

Act No. 94-711

H. 718 – Reps. Penry, McMillan

AN ACT

To exempt public corporations formed under Article 9 of Chapter 50 of Title 11 of the Code of Alabama 1975, for the purpose of operating water, sewer, gas, or electric systems from sales, use, and similar gross receipts taxes; to provide for a retroactive effective date; to repeal all laws and parts of laws in conflict herewith; to provide for the severability of the provisions of this act; and to provide an effective date for this act.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act which add amendatory language to Section 322 of Chapter 50 of Title 11 of the Code of Alabama 1975, shall have retroactive effect to June 29, 1951.

Section 2. The purpose of the Legislature in hereby amending Section 11-50-322 is to clarify and implement the actual purpose

and meaning of the Legislature when it provided exemptions from certain taxes in that section and to reflect the fact that in practice, public corporations formed under Article 9 of Chapter 50 of Title 11 of the Code of Alabama 1975, have not paid sales and use taxes and similar gross receipts taxes to the state and any political subdivisions thereof that may have levied such taxes, based upon the understanding that they were exempt therefrom.

Section 3. Section 11-50-322, Code of Alabama 1975, is amended to read as follows:

“§11-50-322. Exemption from taxation of bonds, property and income of corporation; other exemptions.

“The property and income of each corporation formed or the certificate of incorporation of which is amended under this article and all bonds issued by each such corporation and the income from such bonds and conveyances by or to each such corporation and mortgages and indentures of trust by or to each such corporation shall be exempt from all taxation in the State of Alabama. Each such corporation shall also be exempt from all sales and use taxes and gross receipts taxes levied by the state and any political subdivision thereof with respect to the purchase, sale, use, or consumption of property; provided, however, that the provisions of this section shall not be construed to exempt any such corporation from the privilege or license tax levied by Alabama Code Section 40-21-82 or the excise tax levied by Alabama Code Section 40-21-102; and provided, further, that any such sales, use, or gross receipts taxes that may have been paid to the state or any political subdivision thereof by a corporation that was formed or the certificate of incorporation of which is amended under this article shall not be subject to refund.”

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this act so adjudged to be invalid or unconstitutional.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:15 P.M.

Act No. 94-712

H. 925 – Reps. Cosby, Thomas, Bryant
AN ACT

Relating to Dallas County; authorizing the county commission to impose an excise tax on persons, corporations, partnerships, companies, agencies, associations, trusts, estates, and other entities engaged in the business of selling, distributing, storing, or withdrawing from storage, gasoline and motor fuel in Dallas County in an amount not to exceed two cents (\$0.02) per gallon; to provide for the collection and payment of the taxes and to provide for the distribution of the funds derived therefrom; to authorize the county commission to make rules and regulations for the collection of the tax; to provide for the enforcement of this act; and to fix the penalty for the violation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Dallas County.

Section 2. For purposes of this act, the following terms shall have the following meanings:

(1) COUNTY. Dallas County.

(2) COUNTY COMMISSION. The County Commission of Dallas County.

(3) DISTRIBUTOR. Any person who engages in the selling of gasoline or motor fuel in this state by wholesale domestic trade, but shall not apply to any transaction by the distributor in interstate commerce.

(4) GASOLINE. Gasoline, naphtha, and other liquid motor fuels or any device or substitute therefore which is commonly used in internal combustion engines. The term shall not include those products known commercially as kerosene oil, fuel oil, or crude oil when used for lighting, heating, or industrial purposes.

(5) MOTOR FUEL. Diesel oil, tractor fuel, gas oil, distillate or liquefied gas, kerosene, jet fuel, or any substitutes or devices therefore when sold, distributed, stored, or withdrawn from storage in the county for use in the operation of any motor vehicle upon the highways of this state.

(6) PERSON. Natural persons, corporations, partnerships, companies, agencies, associations, incorporated or otherwise, trusts, estates, and other entities.

(7) REFINER. Any person who manufactures, distills, blends, compounds, or mixes products in the production of gasoline or motor fuel.

(8) RETAIL DEALER. Any distributor who is also engaged in the selling of gasoline or motor fuel at any place in this state in broken quantities.

(9) **STORER.** Any person who ships, causes to be shipped, or receives gasoline or motor fuel in any quantities and who stores, withdraws, or uses gasoline or motor fuel for any purpose.

(10) **USER.** Any person who uses or consumes gasoline or motor fuel. The term shall not include any refiner who has a refinery, located in Dallas County, when using gasoline or motor fuel in the manufacturing or refining process, or any person who holds a federal permit to blend motor fuels and who pays the federal excise tax on the motor fuels directly to the federal government, when the person uses gasoline in this state in the blending process.

Section 3. (a) The Dallas County Commission may impose an additional excise tax on persons selling, distributing, storing, or withdrawing from storage gasoline and motor fuel in an amount not to exceed two cents (\$0.02) and may require every distributor, retail dealer, or storer to pay the additional excise tax. The additional excise tax imposed pursuant to this act shall not be imposed upon the sale of gasoline or motor fuel used in interstate commerce. If the additional excise tax has been paid by a distributor, retail dealer, or storer, the payment shall be sufficient, the intention being that the taxes shall not be paid but once. The additional excise tax shall apply to persons, retail, dealers, or distributors storing gasoline or motor fuel and distributing or withdrawing from storage, whether the withdrawal is for sale or other use. Sellers of gasoline or motor fuel paying the tax herein provided may pay the tax computed and paid on the basis of sales, and storers and distributors shall compute and pay the tax on the basis of withdrawals or distributions. The commission shall not impose any tax upon any gasoline or motor fuel when used in essential governmental functions by the State of Alabama or any agency thereof, federal government or any agency thereof, county commissions, or boards of education. The taxes may only be imposed by the commission after two public hearings have been held on the proposed taxes held at least one week apart. The public hearings shall be advertised for three consecutive days prior to each hearing. After the public hearings, the taxes may be imposed pursuant to this section at a regular or special call meeting of the commission upon the adoption by the commission of a resolution by a majority vote of the total membership.

(b) Any user exempted from the state gasoline tax or motor fuel tax, or both, shall be exempted from the tax levied in this act.

Section 4. On or before the 20th day of each month after the commission has imposed the additional excise tax, each person upon whom the excise tax is imposed shall furnish to the commission on forms prescribed by it a true and correct statement of all sales and withdrawals of gasoline or motor fuel made by that person during

the preceding month. Each person shall furnish to the commission any additional information required by the commission and shall pay to the revenue commissioner an amount of money equal to the excise tax due under this act. The statement made by the distributor, retail dealer, or storer shall be sworn to before an officer authorized to administer oaths and any false statement sworn to shall constitute perjury and, upon conviction, the person so convicted shall be punished as provided by law.

Section 5. Every distributor, retail dealer, or storer shall keep for not less than three years, books, documents, or papers to show the amounts of sale or withdrawals of gasoline and motor fuel.

Section 6. Within 30 days after any tax has been imposed pursuant to this act, every distributor, retail dealer, or storer shall make a report to the commission, on blanks furnished by it, showing the place and post office address at which the distributor, retail dealer, or storer is engaged in the business. The information shall be entered on a book for that purpose. If the distributor, retail dealer, or storer moves the place of business from one address to another, the distributor, retail dealer, or storer shall within 30 days thereafter notify the commission of the move, and shall give the former place and post office address and the place and post office address to which the place of business has moved. After the effective date of this act, no person shall become a distributor, storer, or seller of gasoline or motor fuel in the county until he or she shall have made reports to the commission.

Section 7. If any distributor, retail dealer, or storer of gasoline or motor fuel fails to make the reports, fails to comply with any regulation adopted for the collection of the tax by the commission within the time required for making the reports, or fails to pay the tax imposed within the time established for the payment, the distributor, retail dealer, or storer shall be guilty of a Class C misdemeanor, and, upon conviction thereof, shall be punished as provided by law.

Section 8. The commission shall enforce this act and it shall have the right itself, or its member or its agents to examine the books, reports, and accounts of every distributor, retail dealer, or storer of gasoline or motor fuel on which the tax has been imposed. The commission may make any and all rules and regulations deemed necessary and proper for the collection of the tax. Upon a resolution of the commission, the State Department of Revenue may collect the tax imposed by the county pursuant to this act. Provided that collection of the tax imposed herein, by the State Department of Revenue, shall commence on the first day of the third month following the receipt of the resolution from the Dallas County Commission directing the Department to collect the tax.

All persons, firms, businesses, and corporations owing the tax shall pay it to the department and the payment shall be a full and complete discharge of all liability for the tax owed the county. The department shall promulgate reasonable rules and regulations to facilitate the orderly and efficient collection of the tax imposed pursuant to this act. The department may recover all costs of collecting the tax, not to exceed five percent of the proceeds, and shall pay the net amount remaining thereafter to the commission.

Section 9. If any distributor, retail dealer, or storer in gasoline or motor fuel fails to make monthly reports or fails to pay the tax imposed under this act, the tax shall be deemed delinquent. A penalty in the amount of 10 percent of the tax liability shall be added to the amount due, along with interest calculated according to the rate(s) established under section 40-1-44 of the Code of Alabama 1975. If the commission determines that a good and sufficient cause exists for the delinquency, the penalty may be waived by the commission. If any person is delinquent in the payment of the tax imposed pursuant to this act, the commission shall issue execution for the collection of the tax, directed to any sheriff of the state. The sheriff shall then proceed to collect the tax in the manner now provided by law for the collection of delinquent taxes by the county revenue commissioner and shall make a return of the execution to the commission. The tax imposed pursuant to this act and any penalties provided herein shall be held as a debt payable to the county by the person against whom the tax has been imposed or against whom the penalties shall have accrued. All taxes and penalties shall be a lien upon the property in the county and elsewhere in this state of the person against whom the tax has been imposed and the penalties have accrued.

Section 10. The acceptance of any amount paid pursuant to this act shall not preclude the collection of the total amount which is actually due. The amount actually paid shall constitute a credit against the amount actually due.

Section 11. Any distributor, storer, or dealer who violates this act or who fails to comply with any rule or regulation promulgated hereunder, may be restrained, and prosecution instituted by the Attorney General, or by counsel as the commission directs, from distributing, selling, storing, or withdrawing from storage any gasoline or motor fuel, the sale or withdrawal of which is taxable until those persons have complied with this act.

Section 12. An agent of any railroad company, bus or truck operator, or other transportation company or agency operating in the county shall report to the commission on the fifteenth day of January, April, July, and October of each year all shipments of gasoline or motor fuel handled and delivered to any person in the

county during the preceding three months. The report shall give the names and address of the consignor or consignee shipping and receiving the gasoline or motor fuel, and the number of gallons or pounds contained in each and every shipment.

Section 13. The net proceeds of the tax imposed under authority of this act shall be paid into the road and bridge fund, which is created in the county treasury, and shall be used as provided in Section 14.

Section 14. Expenditures from the special fund provided for in Section 13 shall be made exclusively for the purpose of construction, improvement and maintenance of public highways and bridges including administrative expenses in connection therewith, the retirement of securities evidencing obligations incurred for payment of costs of any construction improvement and maintenance, the matching of federal or state funds in the construction of improved roads and bridges in the county in the same manner as other county funds are used to match federal and state funds and for payment of the costs incurred in the administration and the enforcement of this act.

Section 15. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:18 P.M.

Act No. 94-713

H. 440 – Rep. Millican

AN ACT

To amend Section 36-21-8, Code of Alabama 1975, relating to certain law enforcement officers permitted to retain their badge and pistol as part of retirement benefits, to include certain law enforcement officers who are employees of the Alabama Criminal Justice Information Center.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-21-8, Code of Alabama 1975, is amended to read as follows:

“§36-21-8.

“Any person who, at the time of retirement, is employed by the department of conservation and natural resources, the alcoholic beverage control board, the state forestry commission, or the Alabama Criminal Justice Information Center as a law enforcement officer or investigator shall receive, as part of his or her retirement benefits, without cost, his or her badge and pistol.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:19 P.M.

Act No. 94-714

H. 719 – Rep. Harper

AN ACT

To repeal Section 40-21-57, Code of Alabama 1975, relating to a license tax for the operation of railroads.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-21-57, Code of Alabama 1975, is repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:20 P.M.

Act No. 94-715

H. 533 – Reps. Rogers (J), Barnes, McClain,
Newton (D)

AN ACT

To provide members of the council or governing body of any Class 1 municipality with a certain additional expense allowance; to provide that the expense allowance provided under this act and the expense allowances provided under Section 11-43-7.1, Code of Alabama 1975, shall be eligible for certain treatment both as to the determination of retirement benefits and allowances, and to the withholding of required contributions for membership in any pension or retirement system trust fund in which the members may participate.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to the authority granted by Section 11-43-7.1, Code of Alabama 1975, the council or other governing body of any Class 1 municipality may grant to the members of the council or governing body, an additional amount of money monthly for expenses incurred by the members when attending to the business of the municipality within its corporate limits. The maximum amount of the additional expense allowance shall be three hundred thirty-three dollars and thirty-three cents (\$333.33) per month.

Section 2. Notwithstanding all other provisions of law, any council or governing body member may elect in writing to have the expense allowances authorized by Section 1 of this act and Section 11-43-7.1, Code of Alabama 1975, become subject to the withholding of any employee contribution required to be paid into the trust fund of any pension or retirement system in which the member is eligible to participate. A council or governing body member may also elect in writing, within 90 days of the effective date of this act, to pay into the pension or retirement system trust fund the required contribution on any expense allowances previously received by the member during all or any portion of the three year period prior to the member's payment election, together with interest at the rate of eight percent per annum thereon computed from the date of receipt of the allowance to the date of payment. If either or both of the elections is made by a member of the governing body or council, the expense allowances on which employee contributions are paid into the retirement plan trust fund shall be considered together with all salaries received by the member, from which the required employee contribution was likewise withheld and paid into the retirement trust fund, to determine the base amount on which any retirement benefits or allowances to which the council or governing body member may be entitled shall be computed as provided under the retirement system.

Section 3. The provisions of this act shall not be construed to prevent any member of the council or governing body from being reimbursed for actual expenses incurred by the member in connection with any travel on municipal business beyond the corporate limits of the municipality, and the amount incurred shall not accrue against the monetary amounts provided in Section 1 of this act, nor shall the reimbursement for the amount incurred be eligible for pension system withholding or be considered in determining pension or retirement benefits or allowances.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:21 P.M.

present and to print or distribute, or both, certain identification cards which do not have a certain disclaimer of their authenticity printed on them in a certain place and providing criminal penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) It is unlawful for anyone to use an image or facsimile of the great seal of the State of Alabama as described in Section 1-2-4 of the Code of Alabama 1975, for any commercial purpose.

(b) It is unlawful for anyone to print or distribute, or both, a facsimile of an official identification card issued by the Department of Public Safety, which does not have a disclaimer of the authenticity of the card printed on the front of the card. The disclaimer shall be of the same size and type as the type used for the largest type on the facsimile of an official identification card.

Section 2. A violation of Section 1 of this act is a Class C felony punishable as provided by law.

Section 3. (a) It is unlawful for anyone to possess and present a facsimile of an official identification card issued by the Department of Public Safety.

(b) It is a Class A misdemeanor for any person to possess and present such a facsimile of an official identification card as described in Section 1 of this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:22 P.M.

Act No. 94-717

H. 282 – Rep. Harper

AN ACT

To provide a credit for certain service in the determination of longevity payments pursuant to Section 36-6-11, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Any current state employee who was previously employed in any local legislative delegation office may use that service as state employment in computing longevity payments received pursuant to Section 36-6-11, Code of Alabama 1975. The name of the employee shall be certified by each department head to the State Personnel Department, annually, in time for the payroll for the first pay period in December.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1994

Time: 1:25 P.M.

Act No. 94-718

H. 594 – Reps. Beasley, Carothers, Biddle, Johnson, Haynes, Millican, Page, Morrow, Barnes, Clay, Hooper, McMillan, Anderson, Rogers (J), Freeman, Ford, Flowers, Hammett, Warren, Carter, Spratt, Hilliard, Curry, Smith (R), Haney, McDaniel, Richardson, Petelos, Sanderson, Gaines, Morton, Cullins, Black (M), Layson, Newton (C)

AN ACT

To amend Sections 25-4-77 and 25-4-75, of the Code of Alabama 1975, as amended by Section 1 of Act No. 93-253, S. 459, 1993 Regular Session, relating to unemployment compensation, to provide further for restrictions on extended benefits, eligibility requirements for benefits, in order to conform with federal law.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 25-4-75, Code of Alabama 1975, as amended by Section 1 of Act No. 93-253, 1993 Regular Session, is amended further to read as follows:

“§25-4-75.

“(a) Applicability of section. — Notwithstanding any other provisions of this chapter, the duration of benefits as provided in Section 25-4-74 shall be extended as provided in this section.

“(b) Definitions. — As used in this section, unless the context clearly requires otherwise, the following terms shall mean:

“(1) EXTENDED BENEFIT PERIOD. A period which:

“a. Begins with the third week after a week for which there is a state ‘on’ indicator; and

“b. Ends with either of the following weeks, whichever occurs later:

“1. The third week after the first week for which there is a state ‘off’ indicator; or

“2. The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state ‘on’

indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

"(2) STATE 'ON' INDICATOR. There is a 'state 'on' indicator' for this state for a week if the director determines, in accordance with the regulations of the U. S. Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this section:

"a. For any weeks beginning prior to September 26, 1982, equaled or exceeded that required by this section prior to such date.

"b. For any week beginning on September 26, 1982, or thereafter:

"1. Equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years; and

"2. Equaled or exceeded five percent; provided, that with respect to benefits for weeks of unemployment beginning after September 25, 1982, the determination of whether there has been a 'state 'on' indicator' beginning any extended benefit period shall be made under this paragraph b as if this paragraph b did not contain subparagraph 1 thereof and the 'five' contained in subparagraph 2 thereof were 'six'.

"(3) STATE 'OFF' INDICATOR. There is a 'state 'off' indicator' for this state for a week if the director determines, in accordance with the regulations of the U. S. Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks:

"a. For any weeks beginning prior to September 26, 1982, the rate of insured unemployment under this section was less than that required by this section prior to such date.

"b. For any weeks beginning on September 26, 1982, or thereafter, the requirements of either subparagraph 1 or 2 of paragraph (2) b of this subsection (b) were not satisfied, except that the six percent provision does not apply in determining an 'off' indicator.

"(4) RATE OF INSURED UNEMPLOYMENT. For the purpose of subdivisions (2) and (3) of this subsection (b), such term means the percentage derived by dividing:

"a. The average weekly number of individuals filing claims for regular state benefits in this state for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the director on the basis of his reports to the U. S. Secretary of Labor, by

"b. The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period.

"(5) **REGULAR BENEFITS.** Benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 85), other than extended benefits.

"(6) **EXTENDED BENEFITS.** Benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 85) payable to an individual under the provisions of this subsection for weeks of unemployment in his eligibility period.

"(7) **ELIGIBILITY PERIOD OF AN INDIVIDUAL.** The period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period.

"(8) **EXHAUSTEE.** An individual who, with respect to any week of unemployment in his eligibility period:

"a. Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. 85) in his current benefit year that includes such week; provided, that for the purposes of this subdivision (8), an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

"b. His benefit year having expired prior to such week, has no, or insufficient, wages on the basis of which he could establish a new benefit year that would include such week; and

"c. 1. Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the U.S. Secretary of Labor; and

"2. Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but, if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, he is considered an exhaustee.

"(9) **STATE LAW.** The unemployment insurance law of any state, approved by the U. S. Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

“(c) Effect of state law provisions relating to regular benefits on claims for, and the payment of, extended benefits. — Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the director, the provisions of this chapter which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

“(d) Eligibility requirements for extended benefits. — An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the director finds that with respect to such week:

“(1) He is an ‘exhaustee,’ as defined in subdivision (b)(8) of this section.

“(2) He has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipts of benefits.

“(e) Weekly extended benefit amount. — The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly benefit amount payable to him during his applicable benefit year.

“(f) Total extended benefit amount. — The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be 50 percent, rounded to the nearest multiple of \$1, of the total amount of regular benefits which were payable to him under this chapter in his applicable benefit year.

“(g) Beginning and termination of extended benefit period.

“(1) Whenever an extended benefit period is to become effective in this state, as a result of a state “on” indicator, or an extended benefit period is to be terminated in this state as a result of a state ‘off’ indicator, the director shall make an appropriate public announcement.

“(2) Computations required by the provisions of subdivision (b)(4) of this section shall be made by the director, in accordance with regulations prescribed by the U.S. Secretary of Labor.

“(h) Cessation of extended benefits when paid under an interstate claim in a state where extended benefit period is not in effect.

“(1) Except as provided in subdivision (h)(2), an individual shall not be eligible for extended benefits for any week if:

"a. Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan; and

"b. No extended benefit period is in effect for such week in such state.

"(2) The provisions of subdivision (h)(1) shall not apply with respect to the first two weeks for which extended benefits are payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from his extended benefit amount established for the benefit year.

"(i) Restrictions on entitlement during eligibility period.

"(1) Notwithstanding the other provisions of this section, payment of any extended benefits under this section shall not be made to any individual for any week of unemployment in his eligibility period:

"a. during which he fails to accept any offer of suitable work as defined in subdivision (i) (3) or fails to apply for any such suitable work to which he was referred by the director; or

"b. during which he fails to actively seek work, except as provided in subdivision (a)(5) of Section 25-4-77, but only with regard to the exception for the appearance for jury duty as provided therein.

"(2) If any individual is ineligible for extended benefits for any week by reason of a failure described in subdivision (i)(1), the individual shall be ineligible to receive extended benefits for any week during a period which:

"a. begins with the week following the week in which such failure occurs and

"b. does not end until such individual has been employed in at least four weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than four times his extended weekly benefit amount for his benefit year.

"(3) For the purposes of this subsection (i), the term 'suitable work' means, with respect to any individual, any work which is within such individuals' capabilities; except that, if the individual furnishes evidence satisfactory to the director that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made in accordance with other provisions of this chapter.

“(4) Extended benefits shall not be denied under paragraph a of subdivision (i)(1) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work:

“a. If the gross average weekly remuneration payable to such individual for the position does not exceed the sum of

“1. the individual’s extended weekly benefit amount for the benefit year plus

“2. the amount if any of supplemental unemployment benefits (as defined in 26 U.S.C. 501(c)(17)(D)) payable to such individual for such week;

“b. if the position was not offered to such individual in writing or was not listed with the state employment service;

“c. if such failure would not result in a denial of benefits under the other provisions of this chapter to the extent that such provisions are not inconsistent with subdivisions (4) and (5) of this subsection (i); or

“d. if the position pays wages less than the higher of the minimum wages provided under Section 6 (a)(1) of the Fair Labor Standards Act of 1938, as amended, without regard to any exemption or the applicable state or local minimum wage, if any.

“(5) For purposes of this subsection (i), an individual shall be treated as actively engaged in seeking work during any week if the individual has engaged in a systematic and sustained effort to obtain work during such week, and provides tangible evidence to the director that he has engaged in such effort during such week.

“(j) Referral of extended claimant to job. — Extended benefit claimants shall be referred to any available suitable work to which the definition in subdivision (i)(4) does not apply.

“(k) Employment required after involuntary separation. — No provision of Section 25-4-78 which terminates a disqualification for regular or extended benefits because he or she has voluntarily left employment, was suspended or discharged for misconduct (in any of the degrees defined in Section 25-4-78) or failed to accept an offer of or apply for suitable work shall apply for purposes of determining eligibility for extended benefits unless the disqualification imposed has been terminated based upon employment in four weeks and remuneration of an amount which equals or exceeds four times the individual’s weekly benefit amount subsequent to the effective date of such disqualification.

“(l) Effective date of added provisions. — The provisions of subsections (h), (i), (j), (k) and (l) of this section shall apply to

weeks of unemployment which begin after March 31, 1981, except the provisions of subsection (i), (j), and (k) shall not apply to claims for weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. During this period, the provisions of this chapter applicable to claims for regular compensation shall apply. For weeks beginning on or after January 1, 1995, the provisions of subsections (i), (j), and (k) shall apply.

“(m) Effect of receipt of trade readjustment allowances. — Notwithstanding any other provisions of this section, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this subsection (m), be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual’s weekly benefit amount for extended benefits.”

Section 2. Section 25-4-77, Code of Alabama 1975, is amended to read as follows:

“§25-4-77.

“(a) An unemployed individual shall be eligible to receive benefits with respect to any week in a benefit year which begins on or after January 1, 1989, only if the director finds that:

“(1) He has made a claim for benefits with respect to such week in accordance with such regulations as the director may prescribe.

“(2) He has registered for work at, and thereafter continued to report at, a state employment office in accordance with such regulations as the director may prescribe; except, that the director may by regulation waive or alter either or both of the requirements of this subdivision (2) as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive, or would be inconsistent with purposes of this chapter.

“(3) He is physically and mentally able to perform work of a character which he is qualified to perform by past experience or training, and he is available for such work either at a locality at which he earned wages for insured work during his base period or at a locality where it may reasonably be expected that such work may be available. Notwithstanding any of the provisions of this subdivision, no otherwise eligible individual shall be denied benefits for any week because he or she is:

"a. Enrolled in a course of training with the approval of the director. Such approval shall be conditioned upon the following:

"1. The individual's skills are obsolete or such that there are minimal opportunities for employment;

"2. Training is for an occupation for which there is a substantial and recurring demand;

"3. Training is not a course of education for credit toward a degree;

"4. The individual possesses aptitudes or skills which can be supplemented by retraining within a reasonable time; or

"5. The individual produces satisfactory evidence of continued attendance and satisfactory progress;

"b. In training approved by the director under section 236 (a)(1) of the Trade Act of 1974, nor shall such individual be denied benefits (any other provision of this chapter requiring denial notwithstanding) by reason of leaving work to enter such training; provided,

"1. The work left is not suitable employment as defined in paragraph c of this subdivision (3), or

"2. Because of the application to any such week in training of provisions in this chapter (or any applicable federal unemployment compensation law) relating to availability for work, active search for work or refusal to accept work.

"c. For purposes of paragraph b of this subdivision (3), and only therefor, the term 'suitable employment' means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than 80 percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

"(4) He has been totally or partially unemployed in such week.

"(5) He has made a reasonable and active effort to secure work which he is qualified to perform by past experience and training, unless such failure is because the individual is before any court of the United States or any state pursuant to a lawfully issued summons to appear for jury duty. For the purposes of this subdivision (5), the entitlement to regular or extended benefits of any individual who is determined not to be actively engaged in seeking work during any week for the aforesaid reason, shall be determined pursuant to the provisions of subdivision (3) of this subsection (a) without regard to the disqualification provisions otherwise applicable

under paragraph b of subdivision (i)(1) of Section 25-4-75 and subdivision (i)(2) of Section 25-4-75. Further, for the purposes of this subdivision (5), the term 'jury duty' means the performance of service as a juror, during all periods of time an individual is engaged in such service, in any court of a state or the United States pursuant to the law of the state or the United States and the rules of the court in which the individual is engaged in the performance of such service.

"(6) He has during his base period been paid wages for insured work equal to or exceeding one and one-half times the total of the wages for insured work paid to him in that quarter of such base period in which such total wages were the highest and in addition, qualifies for benefits under the provisions of section 25-4-72; provided, however, that no otherwise eligible individual who shall have received benefits in a preceding benefit year shall be eligible to receive benefits in a succeeding benefit year unless and until such otherwise eligible individual, subsequent to the beginning date of the preceding benefit year, shall have worked in insured employment for which work he earned wages equal to at least eight times the weekly benefit amount established for such individual in the preceding benefit year.

"(7) He has pursuant to Section 4 of Public Law 103-152 been selected and referred to re-employment services and participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the director unless it is determined by the director that:

a. Such claimant has completed such services; or

b. There is justifiable cause for such claimant's failure to participate in such service.

"(b) With respect to any week which begins prior to January 1, 1989, an unemployed individual shall be eligible to receive benefits as provided in this section prior to that date.

"(c) The provisions of subdivision (5) of subsection (a) shall be applied only to any week which begins on or after March 22, 1984."

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 5, 1994

Time: 11:00 A.M.

Act No. 94-719

H. 814 – Reps. McDaniel, Parker (T),
Sanderford, Harvey, Burke,
Carter, Smith (R), Payne,
Newton (C), Beasley,
Venable, Layson, Gullatt,
Rockhold, Gaston,
Kvalheim, Penry, Turner,
Harper, McMillan, Hooper,
Cullins, Hamilton,
Richardson, Rich, Hill,
Smith (C)

AN ACT

To amend Section 25-4-72, Code of Alabama 1975, relating to unemployment compensation weekly benefits, to further provide for the amount of unemployment compensation benefits; and to amend Section 25-4-78, Code of Alabama 1975, relating to disqualifications for unemployment compensation benefits, to provide for disqualification of unemployment compensation benefits due to dismissal for testing positive for the use of illegal drugs.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 25-4-72 and 25-4-78, Code of Alabama 1975, are amended to read as follows:

“§25-4-72.

“(a) For weeks of unemployment during benefit years which begin before the effective date of subsection (b) of this section, an individual’s weekly benefit amount shall be as prescribed by this section as amended through April 7, 1992.

“(b) For weeks of unemployment during benefit years beginning on or after July 3, 1994, an individual’s weekly benefit amount shall be an amount equal to one twenty-fourth of the average of the wages for insured work paid to him during the two quarters of his base period in which such total wages were the highest; except, that:

“(1) If the amount thus derived is not a multiple of \$1.00, fractional parts of \$1.00 in excess of \$.50 shall be rounded to the next higher multiple of \$1.00 and fractional parts of \$1.00 which are \$.50 or less shall be dropped to the next lower multiple of \$1.00.

“(2) If the amount derived before the application of subdivision (1) of this subsection is not in excess of \$21.50, there shall be no weekly benefit amount.

“(3) Effective with benefit years beginning on or after July 3, 1994, if the amount thus derived is more than \$179.50, the weekly maximum benefit amount shall be \$180.00.

“(c) If, as a condition for approval of this section for full tax credit against the tax imposed by the federal Unemployment Tax Act, federal law should require a greater maximum weekly benefit amount than that provided herein, then the maximum weekly benefit amount shall be the minimum required by any such federal law for such approval.

“(d) Nothing herein shall serve to deprive any individual of any benefit for which he had qualified in any benefit year beginning prior to the effective date of the provisions of subsection (b) of this section.

“§25-4-78.

“An individual shall be disqualified for total or partial unemployment:

“(1) **LABOR DISPUTE IN PLACE OF EMPLOYMENT.** For any week in which his total or partial unemployment is directly due to a labor dispute still in active progress in the establishment in which he is or was last employed. For the purposes of this section only, the term ‘labor dispute’ includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee. This definition shall not relate to a dispute between an individual worker and his employer.

“(2) **VOLUNTARILY QUITTING WORK.** If he has left his most recent bona fide work voluntarily without good cause connected with such work.

“a. 1. However, he shall not be disqualified if he was forced to **leave work because he was sick or disabled**, notified his employer of the fact as soon as it was reasonably practicable so to do, and returned to that employer and offered himself for work as soon as he was again able to work; provided, however, this exception shall not apply if the employer had an established leave-of-absence policy covering sickness or disability and:

“(i) The individual fails to comply with same as soon as it is reasonably practicable so to do; or

“(ii) Upon the expiration of a leave of absence shall fail to return to said employer and offer himself for work, if he shall then be able to work, or if he is not then able to work, he fails to so notify his employer of that fact and request an extension of his said leave of absence as soon as it is reasonably practicable so to do.

“2. In case of doubt that an individual was sick or disabled, or as to the duration of any such sickness or disability, the director

may, or if the employer requests it, the director shall require a doctor's certificate to establish the fact or facts in doubt.

"3. An established leave-of-absence policy shall be any leave-of-absence policy covering sickness and disability communicated to the employee by the customary means used by the employer for communicating with his employees.

"4. Nothing herein shall be construed or interpreted as authorizing the payment of benefits to any person during, or for, unemployment due to sickness or disability or during any period in which he is on a leave of absence granted in accordance with an established leave-of-absence policy, the duration of which leave was set in accordance with his request or in accordance with a collective bargaining agreement; except, that if such leave of absence is on account of pregnancy and extends beyond the tenth week following termination of such pregnancy, the individual shall not be denied benefits under the provisions of this subdivision (2) beyond such tenth week if she has given the employer three weeks notice of her desire to return to work, is then able to work and has not refused reinstatement to a job which under the provisions of subdivision (5) of this section would be deemed suitable for her.

"b. When an individual is disqualified under this subdivision (2):

"1. He shall not be entitled to benefits for the week in which the disqualifying event occurs or for any week thereafter until:

"(i) He has reentered insured employment or employment of the nature described in subdivisions (5), (6), (7), (8), (9), (10) or (18) of subsection (b) of Section 25-4-10; and

"(ii) For which employment he has earned wages equal to at least 10 times his weekly benefit amount for the benefit year in which such disqualification is assessed; and

"(iii) He has been separated from such employment under nondisqualifying conditions.

"2. The total amount of benefits to which he may otherwise be entitled as determined in accordance with Sections 25-4-74 and 25-4-75 shall be reduced by an amount equal to not less than six nor more than 12 times his weekly benefit amount.

"3. For the purpose of the experience rating provisions of Section 25-4-54, no portion of the benefits payable to him, based upon wages paid to him for the period of employment ending with the separation to which the disqualification applies, shall be charged to the employer's experience rating account. If the individual has been separated from employment other than his most

recent bona fide work under conditions which would have been disqualifying under this subdivision (2) had the separation been from his most recent bona fide work and the employer answers a notice of payment within 15 days after it is mailed to him detailing the facts in connection with the separation, then no portion of any benefits paid to him based upon wages for the period of employment ending in such separation shall be charged to the employer's experience rating account.

"c. An individual shall not be disqualified if he left his employment and immediately returned to work with his regular employer or to employment in which he had prior existing statutory or contractual seniority or recall rights. When this exception is applied, any benefits paid to such individual based upon wages paid for that period of employment immediately preceding the separation to which the exception is applied, which have not been heretofore charged to the employer's experience rating account, shall not be charged to the account of such employer.

"d. For the purposes of this subdivision (2) and subdivision (3) of this section, the director in determining the 'most recent bona fide work' shall consider the duration of the most recent job or jobs, the intent of the individual and his employer as to the permanence of such work and whether separation from the immediately preceding employment was under conditions which would be disqualifying in the event such immediately preceding employment should be determined to be the most recent bona fide work.

"(3) DISCHARGE FOR MISCONDUCT.

"a. If he was discharged or removed from his work for a dishonest or criminal act committed in connection with his work or for sabotage or an act endangering the safety of others or for the use of illegal drugs after previous warning or for the refusal to submit to or cooperate with a blood or urine test after previous warning. Disqualification under this paragraph may be applied to separations prior to separation from the most recent bona fide work only if the employer has filed a notice with the director alleging that the separation was under conditions described in this paragraph in such manner and within such time as the director may prescribe.

"(i) A confirmed positive drug test that is conducted and evaluated according to standards set forth for the conduct and evaluation of such tests by the U.S. Department of Transportation in 49 C.F.R. Part 40 or standards shown by the employer to be otherwise reliable shall be a conclusive presumption of impairment by illegal drugs. No unemployment compensation benefits shall be allowed to an employee having a confirmed positive drug test if the

employee had been warned that such a positive test could result in dismissal pursuant to a reasonable drug policy. A drug policy shall be deemed reasonable if the employer shows that all employees of the employer regardless of position or classification, are subject to testing under the policy, and in those instances in which the employer offers as the basis for disqualification from unemployment compensation benefits the results obtained pursuant to additional testing imposed on some but not all classifications, if the employer can also offer some rational basis for conducting such additional testing. Further, no unemployment compensation benefits shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above, or if the employee knowingly alters or adulterates the blood or urine specimen.

“(ii) For purposes of paragraph a. and item (i) of paragraph a. of this subsection, ‘warning’ shall mean that the employee has been advised in writing of the provisions of the employer’s drug policy and that either testing positive pursuant to the standards referenced above or the refusal to submit to or cooperate with a blood or urine test as set out in the above referenced standards could result in termination of employment. This written notification as herein described shall constitute a ‘warning’ as used in paragraph a. and item (i) of paragraph a. of this subsection.

“(iii) To the extent that the issue is a positive drug test or the refusal to submit to or cooperate with a blood or urine test, or if the employee knowingly alters or adulterates the blood or urine sample, as distinguished from some other aspect of the employer’s drug policy, this disqualification under paragraph a. and item (i) of paragraph a. shall be the only disqualification to apply, in connection with an individual’s separation from employment. Other non-separation disqualifications may apply.

“When an individual is disqualified under this paragraph:

“1. He shall not be entitled to benefits for the week in which the disqualifying event occurs or for any week thereafter until he has reentered insured employment or employment of the nature described in subdivisions (5), (6), (7), (8), (9), (10) or (18) of subsection (b) of Section 25-4-10, has earned wages equal at least to 10 times his weekly benefit amount and has been separated from such employment for a nondisqualifying reason.

“2. He shall not thereafter be entitled to any benefits under this chapter on account of wages paid to him for the period of employment by the employer by whom he was employed when the disqualifying event occurred.

“3. For the purposes of the experience rating provisions of Section 25-4-54:

“(i) No portion of any benefits based upon wages paid to the individual for the period of employment by the employer by whom he was employed when the disqualifying event occurred shall be charged to the employer’s experience rating account.

“(ii) In the case of a separation prior to the separation from the most recent bona fide work, if the only reason disqualification under this paragraph a was not assessed was the failure of the employer to properly file a timely separation report with the director and the employer files such a report within 15 days after the mailing of a notice of payment, then no portion of any benefits paid based upon the wages paid for the period of employment ending in such prior separation shall be charged to the employer’s experience rating account.

“b. If he was discharged from his most recent bona fide work for actual or threatened misconduct committed in connection with his work (other than acts mentioned in paragraph a. of this subdivision (3)) repeated after previous warning to the individual. When an individual is disqualified under this paragraph, or exempt from disqualification for a separation under such conditions prior to his most recent bona fide work, the effect shall be the same as provided in paragraph b. of subdivision (2) of this section for disqualification or exemption from disqualification respectively.

“c. If he was discharged from his most recent bona fide work for misconduct connected with his work [other than acts mentioned in paragraphs a and b of this subdivision (3)]:

“1. He shall be disqualified from receipt of benefits for the week in which he was discharged and for not less than the three nor more than the seven next following weeks, as determined by the director in each case according to the seriousness of the conduct.

“2. **The total amount of benefits to which he may otherwise be** entitled as determined in accordance with Sections 25-4-74 and 25-4-75 shall be reduced by an amount equal to the product of the number of weeks for which he shall be disqualified multiplied by his weekly benefit amount.

“3. Only one-half of the benefits paid to him based upon wages for that period of employment immediately preceding the separation to which the disqualification applies shall be charged to the employer for the purposes of the experience rating provisions of Section 25-4-54. If the individual has been separated from employment, other than his most recent bona fide work, under conditions which would have been disqualifying under paragraph c of this subdivision (3), had the separation been from his most recent bona fide work and the employer answers a notice of payment within 15 days after it is mailed to him detailing the facts in connection with

the separation, then only one-half of the benefits paid to him for that period of employment immediately preceding the separation shall be charged to the employer for the purposes of the experience rating provisions of Section 25-4-54.

"d. If he has been suspended as a disciplinary measure connected with his work, or for misconduct connected with his work, he shall be disqualified from benefits for the week or weeks (not to exceed four weeks) in which, or for which, he is so suspended and the total amount of benefits to which he may otherwise be entitled shall be reduced in the same manner and to the same extent as provided in subparagraph 2 of paragraph c of this subdivision (3).

"(4) **REVOCAION OR SUSPENSION OF REQUIRED LICENSE, ETC.** For the week in which he has become unemployed because a license, certificate, permit, bond or surety which is necessary for the performance of such employment and which he is responsible to supply has been revoked, suspended or otherwise become lost to him for a cause other than one which would fall within the meaning of subdivision (3) of this section, but one which was within his power to control, guard against or prevent, and for each week thereafter until:

"a. Said license, certificate, permit, bond or surety has been restored to him and he has reapplied to his employer for employment; or

"b. He has reentered insured employment or employment of the nature described in subdivisions (5), (6), (7), (8), (9), (10) or (18) of subsection (b) of Section 25-4-10, whichever is the earlier.

"(5) **FAILURE TO ACCEPT AVAILABLE SUITABLE WORK, ETC.** If he fails, without good cause, either to apply for or to accept available suitable work or to return to his customary self-employment when so directed by the director or when he is notified of suitable work or it is offered him through a state employment office or the United States employment service, or directly or by written notice or offer to any such employment office or employment service by an employer by whom the individual was formerly employed. Such disqualification shall be for a period of not less than one nor more than 10 weeks from the date of said failure. This disqualification shall not apply unless the individual has an established benefit year, or is seeking to establish one or is seeking extended benefits at the time he fails without good cause, to do any of the acts set out in this subdivision (5).

"a. In determining whether or not any work is suitable for an individual, the director shall consider:

"1. The degree of risk involved to his health, safety and morals, his physical fitness and prior training,

- "2. His experience and prior earnings,
- "3. His length of unemployment,
- "4. His prospects for securing local work in his customary occupation,
- "5. The distance of the available work from his residence; provided, that no work or employment shall be deemed unsuitable because of its distance from the individual's residence, if such work or employment is in the same or substantially the same locality as was his last previous regular place of employment and if the employee left such voluntarily without good cause connected with such employment.

"b. Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

"1. If the position offered is vacant due directly to a strike, lockout or other labor dispute;

"2. If the wages, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

"3. If as a condition of being employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization.

"c. Notwithstanding any other provisions of this section, benefits shall not be denied an individual, by reason of the application of the provisions of this subdivision (5), with respect to any week in which he is in training with the approval of the director as described in subdivision (a) (3) of Section 25-4-77.

"(6) RECEIPT OF DISMISSAL OR SEPARATION ALLOWANCE, BACK PAY AWARD, ETC. For any week with respect to which he is receiving or has received remuneration in the form of wages in lieu of notice, a dismissal or separation allowance or back pay award. Notwithstanding the provisions of Section 25-4-91 any benefits previously paid for weeks of unemployment with respect to which back pay awards are made shall constitute an overpayment and such amounts shall be deducted from the award by the employer prior to payment to the employee and shall be transmitted promptly to the director by the employer for application against the overpayment and credit to the claimant's maximum benefit amount and prompt deposit into the fund; provided, however, the removal of any charges made against the employer as a result of such previously paid benefits shall be applied to the calendar year and the calendar

quarter in which the overpayment is received by the director and no attempt shall be made to relate such a credit to the period to which the award applies. Any amount of overpayment deducted by the employer shall be subject to the same procedures for collection as is provided for contributions by Section 25-4-134 of this chapter.

“(7) RECEIPT OF OR APPLICATION FOR UNEMPLOYMENT COMPENSATION FROM ANOTHER STATE, ETC. For any week with respect to which, or a part of which, he has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided, that if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits this disqualification shall not apply.

“(8) RECEIPT OF PENSION PAYMENT. For any week with respect to which, or a part of which, an individual has received or has, except for the determination of an exact or specific amount, been determined eligible to receive (during a period for which benefits are being claimed) governmental or other pension, retirement or retired pay, annuity, or similar periodic payment which is based on the previous work of the individual; except, that

“a. For weeks of unemployment which begin prior to April 26, 1982, as was prescribed by this subsection prior to such date, and

“b. For weeks of unemployment which begin on or after April 26, 1982, the amount of any benefits payable to an individual for any such week which begins in a period with respect to which the disqualifying provisions of this subdivision apply, shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity or other payment, which is reasonably attributable to such week, provided, however, such reduction required hereby shall apply to any pension, retirement or retired pay, annuity, or other similar payment only if:

“1. Such payment is made under a plan maintained (or contributed to) by a base period employer, and

“2. In the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for such employer by the individual after the beginning of his base period (or remuneration for such services) affect eligibility for or increase the amount of, such payment.

“c. The other provisions of this subdivision to the contrary notwithstanding, the amount of any pension, retirement or retired pay, annuity, or other similar periodic payment under the Social Security Act or the Railroad Retirement Act shall, prior to the

deduction of such payment from any benefits due for such week, be reduced by 50 percent.

"d. If in accordance with this subdivision (8) any individual is awarded pension payments retroactively covering the same period for which the individual received benefits, the retroactive payments shall constitute cause for disqualification and any benefits paid during such period shall be recovered.

"(9) RECEIPT OF OR APPLICATION FOR WORKMEN'S COMPENSATION. For any week with respect to which, or a part of which, he has received or is seeking compensation for temporary disability under any workmen's compensation law; provided, that if it is finally determined he is not entitled to such compensation, this disqualification shall not apply; and provided further, that if such compensation is less than the benefits which would otherwise be due under this chapter, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such payment.

"(10) EMPLOYMENT BY PUBLIC WORKS AGENCY, ETC. For any week that such individual is engaged or employed by the works progress administration, the national youth administration or any federal or state unit, agency or instrumentality in charge of public works, assistance through public employment or work relief.

"(11) SELF-EMPLOYMENT. For any week in which he is self-employed and each week thereafter until he shall establish that he is no longer self-employed.

"(12) RECEIPT OF, OR APPLICATION FOR, TRAINING ALLOWANCE, ETC. For any week with respect to which, or a part of which, an individual who is enrolled in a course of training with the approval of the director, within the meaning of subdivision (a) (3) of Section 25-4-77, has applied for, or is entitled to receive, any wage or subsistence or training allowance or other form of remuneration, other than reimbursement for travel expenses, for a course of training under any public or private training program; provided, that if it is finally determined that he is not entitled to such remuneration, this disqualification shall not apply. If the remuneration, the receipt of which is disqualifying under this subdivision (12), is less than the weekly benefits which he would otherwise be due under this chapter he shall be entitled to receive, if otherwise eligible, weekly benefits reduced by the amount of such remuneration. It is further provided that receipt of training allowances under the Trade Readjustment Act shall not be cause for disqualification under this subdivision.

"(13) PARTICIPATION IN PROFESSIONAL SPORTS. For any week which commences during the period between two successive sport seasons (or similar periods) to any individual for which benefits claimed are on the basis of any services, substantially all of

which consist of participating in sports or athletic events or training or preparing to so participate, if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

“(14) ALIENS.

“a. For any week for which benefits claimed are on the basis of services performed by an alien unless:

“1. Such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, and was lawfully present for purposes of performing such services; or,

“2. Such alien was permanently residing in the United States under color of law at the time such services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a) (7) or Section 212(d) (5) of the Immigration and Nationality Act); or,

“3. Such alien was lawfully admitted for temporary residence as provided for under the provisions of Section 245A(a) of the Immigration Reform and Control Act of 1986 (PL 99-603).

“b. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

“c. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.”

Section 2. This act shall become effective and apply to separation occurring on or after July 3, 1994, following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 5, 1994

Time: 11:05 A.M.

Act No. 94-720

H. 534 – Reps. McDaniel, Richardson, Lindsey,
Burke, Harvey, Drake

AN ACT

To amend Section 40-23-4 of the Code of Alabama 1975, to provide further for certain sales tax exemptions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-23-4 of the Code of Alabama 1975, is amended to read as follows:

“§40-23-4.

“(a) There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed, or payable under this division the following:

“(1) The gross proceeds of the sales of lubricating oil and gasoline as defined in Sections 40-17-30 and 40-17-170 and the gross proceeds from those sales of lubricating oil destined for out-of-state use which are transacted in a manner whereby an out-of-state purchaser takes delivery of such oil at a distributor’s plant within this state and transports it out-of-state, which are otherwise taxed.

“(2) The gross proceeds of the sale, or sales, of fertilizer when used for agricultural purposes. The word ‘fertilizer’ shall not be construed to include cottonseed meal, when not in combination with other materials.

“(3) The gross proceeds of the sale, or sales, of seeds for planting purposes and baby chicks and poults. Nothing herein shall be construed to exempt or exclude from the computation of the tax levied, assessed, or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock, or floral products.

“(4) The gross proceeds of sales of insecticides and fungicides when used for agricultural purposes or when used by persons properly permitted by the department of agriculture and industries or any applicable local or state governmental authority for structural pest control work and feed for livestock and poultry, but not including prepared food for dogs and cats.

“(5) The gross proceeds of sales of all livestock by whomsoever sold, and also the gross proceeds of poultry and other products of the farm, dairy, grove, or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed, or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

“(6) Cottonseed meal exchanged for cottonseed at or by cotton gins.

“(7) The gross receipts from the business on which, or for engaging in which, a license or privilege tax is levied by or under the provisions of Sections 40-21-50, 40-21-53 and 40-21-56 through

40-21-60; provided, that nothing contained in this subdivision shall be construed to exempt or relieve the person or persons operating the business enumerated in said sections from the payments of the tax levied by this division upon or measured by the gross proceeds of sales of any tangible personal property, except gas and water, the gross receipts from the sale of which are the measure of the tax levied by said Section 40-21-50, merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this division.

"(8) The gross proceeds of sales or gross receipts of or by any person, firm, or corporation, from the sale of transportation, gas, water, or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the Public Service Commission of Alabama or like regulatory bodies.

"(9) The gross proceeds of the sale, or sales of wood residue, coal, or coke to manufacturers, electric power companies, and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used in manufacturing tangible personal property for sale, for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for resale, or for the generation of motive power for transportation.

"(10) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships, vessels, towing vessels, or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, or other watercraft (herein for purposes of this exemption being referred to as 'vessels') engaged in foreign or international commerce or in interstate commerce; provided, that nothing in this division shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships, other watercraft, and commercial fishing vessels of over five tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources.

"For purposes of this subdivision, it shall be presumed that vessels engaged in the transportation of cargo between ports in the State of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the State of Alabama and ports in other states are engaged in foreign or international commerce or interstate commerce, as the case may be. For the purposes of this subdivision, the engaging in foreign or international commerce or interstate commerce shall not require that the vessel

involved deliver cargo to or receive cargo from a port in the State of Alabama. For purposes of this subdivision, vessels carrying passengers for hire, and no cargo, between ports in the State of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the State of Alabama and ports in other states shall be engaged in foreign or international commerce or interstate commerce, as the case may be, if, and only if, both of the following conditions are met: (i) the vessel in question is a vessel of at least 100 gross tons; and (ii) the vessel in question has an unexpired certificate of inspection issued by the United States Coast Guard or by the proper authority of a foreign country for a foreign vessel, which certificate is recognized as acceptable under the laws of the United States. Vessels which are engaged in foreign or international commerce or interstate commerce shall be deemed for the purposes of this subdivision to remain in such commerce while awaiting or under repair in a port of the State of Alabama if such vessel returns after such repairs are completed to engaging in foreign or international commerce or interstate commerce. For purposes of this subdivision, seismic or geophysical vessels which are engaged either in seismic or geophysical tests or evaluations exclusively in offshore federal waters or in traveling to or from conducting such tests or evaluations shall be deemed to be engaged in international or foreign commerce. For purposes of this subdivision, proof that fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce may be accomplished by the merchant or seller securing the duly signed certificate of the vessel owner, operator, or captain or their respective agent on a form prescribed by the department that the fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce. **Any person filing a false certificate** shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25 nor more than \$500 for each offense. Each false certificate filed shall constitute a separate offense. Any person filing a false certificate shall be liable to the department for all taxes imposed by this division upon the merchant or seller, together with any interest or penalties thereon, by reason of the sale or sales of fuel and supplies applicable to such false certificate. If a merchant or seller of fuel and supplies secures the certificate herein mentioned, properly completed, such merchant or seller shall not be liable for the taxes imposed by this division, if such merchant or seller had no knowledge that such certificate was false when it was filed with such merchant or seller.

“(11) The gross proceeds of sales of tangible personal property to the State of Alabama, to the counties within the state and to incorporated municipalities of the State of Alabama.

"(12) The gross proceeds of the sale or sales of railroad cars, vessels, barges, and commercial fishing vessels of over five tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources, when sold by the manufacturers or builders thereof.

"(13) The gross proceeds of the sale or sales of materials, equipment, and machinery which, at any time, enter into and become a component part of ships, vessels, towing vessels or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, other watercraft and commercial fishing vessels of over five tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources.

"(14) The gross proceeds of the sale or sales of fuel oil purchased as fuel for kiln use in manufacturing establishments.

"(15) The gross proceeds of the sale or sales of tangible personal property to county and city school boards, independent school boards, and all educational institutions and agencies of the State of Alabama, the counties within the state, or any incorporated municipalities of the State of Alabama.

"(16) The gross proceeds from the sale of all devices or facilities, and all identifiable components thereof, or materials for use therein, acquired primarily for the control, reduction, or elimination of air or water pollution and the gross proceeds from the sale of all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction, or elimination of air and water pollution.

"(17) The gross proceeds of sales of tangible personal property or the gross receipts of any business which the state is prohibited from taxing under the Constitution or laws of the United States or under the constitution of this state.

"(18) When dealers or distributors use parts taken from stocks owned by them in making repairs without charge for such parts to the owner of the property repaired pursuant to warranty agreements entered into by manufacturers, such use shall not constitute taxable sales to the manufacturers, distributors, or to the dealers, under this division or under any county sales tax law.

"(19) The gross proceeds received from the sale or furnishing of food, including potato chips, candy, fruit and similar items, soft drinks, tobacco products, and stationery and other similar or related articles by hospital canteens operated by Alabama State hospitals at Bryce Hospital and Partlow State School for Mental

Deficients at Tuscaloosa, Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the benefit of the patients therein.

"(20) The gross proceeds of the sale, or sales, of wrapping paper and other wrapping materials when used in preparing poultry or poultry products for delivery, shipment, or sale by the producer, processor, packer, or seller of such poultry or poultry products, including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes or other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment, or sale of poultry or poultry products.

"(21) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines or medications, vitamins, minerals, or other nutrients, and all other feed ingredients including concentrates, supplements, and other feed ingredients when such substances are used as ingredients in mixing and preparing feed for fish raised to be sold on a commercial basis, livestock, and poultry. Such exemption herein granted shall be in addition to exemptions now provided by law for feed for fish raised to be sold on a commercial basis, livestock, and poultry, but not including prepared foods for dogs or cats.

"(22) The gross proceeds of the sale, or sales, of seedlings, plants, shoots, and slips which are to be used for planting vegetable gardens or truck farms and other agricultural purposes. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed, or payable, the gross proceeds of the sale, or the use of plants, seedlings, shoots, slips, nursery stock, and floral products, except as hereinabove exempted.

"(23) The gross proceeds of the sale, or sales, of fabricated steel tube sections, when produced and fabricated in this state by any person, firm, or corporation for any vehicular tunnel for highway vehicular traffic, when sold by the manufacturer or fabricator thereof, and also the gross proceeds of the sale, or sales, of steel which enters into and becomes a component part of such fabricated steel tube sections of said tunnel.

"(24) The gross proceeds from sales of admissions to any theatrical production, symphonic or other orchestral concert, ballet, or opera production when such concert or production is presented by any society, association, guild, or workshop group, organized within this state, whose members or some of whose members regularly and actively participate in such concerts or productions for the purposes of providing a creative outlet for the cultural and educational interests of such members, and of promoting such interests for the betterment of the community by presenting such productions to the

general public for an admission charge. The employment of a paid director or conductor to assist in any such presentation described in this subdivision shall not be construed to prohibit the exemptions herein provided.

“(25) The gross proceeds of sales of herbicides for agricultural uses by whomsoever sold. The term ‘herbicides,’ as used in this subdivision, means any substance or mixture of substances intended to prevent, destroy, repel, or retard the growth of weeds or plants. It shall include preemergence herbicides, postemergence herbicides, lay-by herbicides, pasture herbicides, defoliant herbicides, and desiccant herbicides.

“(26) The Alabama chapter of the Cystic Fibrosis Research Foundation and the Jefferson Tuberculosis Sanatorium and any of their departments or agencies, heretofore or hereafter organized and existing in good faith in the State of Alabama for purposes other than for pecuniary gain and not for individual profit, shall be exempted from the computation of the tax on the gross proceeds of all sales levied, assessed, or payable.

“(27) The gross proceeds from the sale or sales of fuel for use or consumption aboard commercial fishing vessels are hereby exempt from the computation of all sales taxes levied, assessed, or payable under the provisions of this division or levied under any county or municipal sales tax law.

“The words ‘commercial fishing vessels’ shall mean vessels whose masters and owners are regularly and exclusively engaged in fishing as their means of livelihood.

“(28) The gross proceeds of sales of sawdust, wood shavings, wood chips, and other like materials sold for use as ‘chicken litter’ by poultry producers and poultry processors.

“(29) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines, and other medications including serums and vaccines, vitamins, minerals, or other nutrients for use in the production and growing of fish, livestock, and poultry by whomsoever sold. Such exemption as herein granted shall be in addition to the exemption provided by law for feed for fish, livestock, and poultry, and in addition to the exemptions provided by law for the above-enumerated substances and products when mixed and used as ingredients in fish, livestock, and poultry feed.

“(30) The gross proceeds of the sale or sales of all medicines prescribed by physicians for persons who are 65 years of age or older, and when said prescriptions are filled by licensed pharmacists, shall be exempted under this division or under any county or

municipal sales tax law. The exemption provided in this section shall not apply to any medicine purchased in any manner other than as is herein provided.

"For the purposes of this subdivision, proof of age may be accomplished by filing with the dispensing pharmacist any one or more of the following documents:

"a. The name and claim number as shown on a 'Medicare' card issued by the United States Social Security Administration.

"b. A certificate executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

"c. An affidavit executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

"For the purposes of this subdivision, any person filing a false proof of age shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.

"(31) There shall be exempted from the tax levied by this division the gross receipts of sales of grass sod of all kinds and character when in the original state of production or condition of preparation for sale, when such sales are made by the producer or members of his family or for him by those employed by him to assist in the production thereof; provided, that nothing herein shall be construed to exempt sales of sod by a person engaged in the business of selling plants, seedlings, nursery stock, or floral products.

"(32) The gross receipts of sales of the following items or materials which are necessary in the farm-to-market production of tomatoes when such items or materials are used by the producer or members of his family or for him by those employed by him to assist in the production thereof: Twine for tying tomatoes, tomato stakes, field boxes (wooden boxes used to take tomatoes from the fields to shed), and tomato boxes used in shipments to customers.

"(33) The gross proceeds from the sale of liquefied petroleum gas or natural gas sold to be used for agricultural purposes.

"(34) The gross receipts of sales from state nurseries of forest tree seedlings.

"(35) The gross receipts of sales of forest tree seed by the state.

"(36) The gross receipts of sales of Lespedeza bicolor and other species of perennial plant seed and seedlings sold for wildlife and game food production purposes by the state.

“(37) The gross receipts of any aircraft manufactured, sold, and delivered in this state if said aircraft are not permanently domiciled in Alabama and are removed to another state within three days of delivery.

“(38) The gross proceeds from the sale or sales of all diesel fuel used for off-highway agricultural purposes.

“(39) The gross proceeds from sales of admissions to any sporting event which:

“a. Takes place in the State of Alabama on or after January 1, 1984, regardless of when such sales occur; and

“b. Is hosted by a not-for-profit corporation organized and existing under the laws of the State of Alabama; and

“c. Determines a national championship of a national organization, including but not limited to the Professional Golfers Association of America, the Tournament Players Association, the United States Golf Association, the United States Tennis Association, and the National Collegiate Athletic Association; and

“d. Has not been held in the State of Alabama on more than one prior occasion, provided, however, that for such purpose the Professional Golfers Association Championship, the United States Open Golf Championship, the United States Amateur Golf Championship of the United States Golf Association, and the United States Open Tennis Championship shall each be treated as a separate event.

“(40) The gross receipts from the sale of any aircraft and replacement parts, components, systems, supplies, and sundries affixed or used on said aircraft and ground support equipment and vehicles used by or for the aircraft to or by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate, or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words ‘hub operation within this state’ shall be construed to have all of the following criteria:

“a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

“b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

“(41) The gross receipts from the sale of hot or cold food and beverage products sold to or by a certificated or licensed air carrier with a hub operation within this state, for use in conducting

intrastate, interstate, or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words 'hub operation within this state' shall be construed to have all of the following criteria:

"a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

"b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

"(42) The gross proceeds of the sale or sales of the following:

"a. Drill pipe, casing, tubing, and other pipe used for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"b. Tangible personal property exclusively used for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"c. Fuel and supplies for use or consumption aboard boats, ships, aircraft, and towing vessels when used exclusively in transporting persons or property between a point in Alabama and a point or points in offshore federal waters for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"d. Drilling equipment that is used for the exploration for or production of oil, gas, sulphur, or other minerals, that is built for exclusive use outside this state and that is, on completion, removed forthwith from this state.

"The delivery of items exempted by this subdivision to the purchaser or lessee in this state does not disqualify the purchaser or lessee from the exemption if the property is removed from the state by any means, including by the use of the purchaser's or lessee's own facilities.

"The shipment to a place in this state of equipment exempted by this subdivision for further assembly or fabrication does not disqualify the purchaser or lessee from the exemption if on completion of the further assembly or fabrication the equipment is removed forthwith from this state. This subdivision applies to a sale that may occur when the equipment exempted is further assembled or fabricated if on completion the equipment is removed forthwith from this state.

"(43) The gross receipts derived from all bingo games and operations which are conducted in compliance with validly enacted

legislation authorizing the conduct of such games and operations, and which comply with the distribution requirements of the applicable local laws; provided that the exemption from sales taxation granted by this subdivision shall apply only to gross receipts taxable under subdivision (2) of Section 40-23-2. It is further provided that this exemption shall not apply to any gross receipts from the sale of tangible personal property, such as concessions, novelties, food, beverages, etc. The exemption provided for in this section shall be limited to those games and operations by organizations which have qualified for exemption under the provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or (19), or which are defined in 26 U.S.C. § 501 (d).

“(44) The gross receipts derived from the sale or sales of fruit or other agricultural products by the person or corporation that planted, cultivated, and harvested such fruit or agricultural product.

“(b) Any violation of any provision of this section shall be punishable in a court of competent jurisdiction by a fine of not less than \$500 and no more than \$2,000 and imprisonment of not less than six months nor more than one year in the county jail.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 5, 1994

Time: 4:00 P.M.

Act No. 94-721

H. 851 – Rep. Thomas

AN ACT

Reopening the Employees' Retirement System to allow certain members of the system employed by employers participating in the system pursuant to Section 36-27-6, Code of Alabama 1975, to purchase credit in the system for the period of service for which they were once excluded from membership in the system; providing for payment of costs for credit for the service; reopening the Employees' and Teachers' Retirement Systems to allow certain members of the systems an opportunity to purchase credit in the system for certain prior service rendered in a program in the office of a local district attorney which was financed by a federal grant; and providing for a delayed effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Any active and contributing member of the Employees' Retirement System who is an employee of an employer participating in the system pursuant to Section 36-27-6, Code of

Alabama 1975, and whose current position was once excluded by the employer from participating in the system, may receive credit in the system for the period of full-time service for which his or her position was excluded by the employer from participating in the system, provided the member claiming the credit has been continuously employed by the employer since January 1, 1987, and the member performs and complies with the conditions prescribed in Section 2 of this act.

Section 2. A member of the Employees' Retirement System eligible to purchase credit in the system under Section 1 of this act shall receive the credit after satisfying the following conditions:

(1) Each person eligible to claim and purchase the credit for service under Section 1 of this act shall be awarded creditable service under the Employees' Retirement System provided he or she shall pay into the retirement system, prior to October 1, 1995, a lump sum equal to the percentage of his or her current annual earnable compensation, or final average compensation, whichever is greater, for each year of service credit purchased; the current annual earnable compensation or final average compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation.

(2) The employer shall certify in writing to the Employees' Retirement System the dates of the period of full-time employment for which the member is claiming credit.

Section 3. An active and contributing member of the Employees' or Teachers' Retirement System who has been a member of the system for at least 10 years, may claim and purchase credit not to exceed three years in his or her respective retirement system for prior service rendered while employed in a program in the office of a local district attorney which was financed at the time the service was rendered by a federal grant if the member complies with the provisions set forth in Section 4 of this act.

Section 4. Each person eligible to claim and purchase the credit for service under Section 3 of this act shall be awarded creditable service under the Employees' Retirement System or Teachers' Retirement System provided he or she shall pay into the retirement system, prior to October 1, 1995, a lump sum equal to the percentage of his or her current annual earnable compensation, or final average compensation, whichever is greater, for each year of service credit purchased; the current annual earnable compensation or final average compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation.

Section 5. This act shall become effective on October 1, 1994, upon its passage and approval by the Legislature or its otherwise becoming a law.

Approved May 5, 1994

Time: 4:01 P.M.

Act No. 94-722

H. 474 – Reps. Hooper, Cullins

AN ACT

Reopening the Employees' Retirement System of Alabama for a certain period of time to allow certain active members of the system to purchase credit under certain guidelines and conditions for prior service with the Alabama State Council on the Arts, and reopening the Employees' and Teachers' Retirement Systems to allow certain members of the systems an opportunity to purchase credit in the system for certain prior service rendered in a program in the office of a local district attorney which was financed by a federal grant and providing for a termination date.

Be It Enacted by the Legislature of Alabama:

Section 1. Any active and contributing member of the Employees' Retirement System may purchase credit in the Employees' Retirement System for prior service with the Alabama State Council on the Arts if the member has not received credit in the system for the same prior service and has not vested or otherwise become eligible to receive a retirement benefit by using the same prior service credit in another pension plan offered by the council.

Section 2. A member of the Employees' Retirement System who is eligible to purchase any prior service credit under Section 1 of this act shall receive the credit if he or she pays into the system on or before his or her date of retirement, an amount of five percent of the greater of the member's current annual earnable compensation or average final compensation, whichever is greater, as determined by the actuary for the system, for the entire period of prior service claimed, or any portion thereof, plus eight percent compounded interest thereon through the date of repayment, for each year of prior service purchased. Prior service may be purchased only in yearly increments of at least two years at a time. At the same time that the employee makes his or her payment for the prior service credit, he or she shall also remit to the Employees' Retirement System the employer's share of the cost for the prior service credit being purchased, plus eight percent compounded interest thereon through the date of repayment, as determined by the actuary for the system.

Section 3. An active and contributing member of the Employees' or Teachers' Retirement System who has been a member of the system for at least 10 years, may claim and purchase credit not to exceed three years in his or her respective retirement system for prior service rendered while employed in a program in the office of a local district attorney which was financed at the time the service was rendered by a federal grant if the member complies with the provisions set forth in Section 4 of this act.

Section 4. Each person eligible to claim and purchase the credit for service under Section 3 of this act shall be awarded creditable service under the Employees' Retirement System or Teachers' Retirement System provided he or she shall pay into the retirement system, prior to October 1, 1995, a lump sum equal to the percentage of his or her current annual earnable compensation, or final average compensation, whichever is greater, for each year of service credit purchased; the current annual earnable compensation or final average compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation.

Section 5. This act shall become effective on October 1, 1994, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 5, 1994

Time: 4:02 P.M.

1980 Commissioners Standard Ordinary Mortality Table
Basic Value 6.00%
Age Near Birthday
Male

AGE x	l_x	d_x	$1000q_x$	q_x	v^x	AGE x
0	10 000 000	41 809	4.18	70 83	1 000 000 00	0
1	9 858 200	10 855	1.07	70 13	843 388 23	1
2	9 847 845	9 848	.99	69 20	888 286 44	2
3	9 837 887	9 739	.88	68 27	838 818 29	3
4	9 827 858	8 432	.85	67 34	782 083 86	4
5	9 818 258	8 437	.80	66 40	747 358 17	5
6	9 808 698	8 222	.86	65 46	704 860 84	6
7	9 801 077	7 821	.80	64 52	665 057 11	7
8	9 813 156	7 189	.74	63 57	627 413 37	8
9	9 885 637	7 319	.74	62 62	581 888 46	9
10	9 879 332	7 201	.73	61 68	558 284 79	10
11	9 811 111	7 005	.72	60 71	528 704 83	11
12	9 862 810	6 884	.85	59 75	486 868 36	12
13	9 855 138	6 757	.89	58 80	469 838 05	13
14	9 845 268	13 122	1.36	57 84	442 300 46	14
15	9 834 047	13 078	1.33	56 82	417 385 08	15
16	9 820 868	14 930	1.51	55 00	393 848 29	16
17	9 806 139	16 179	1.67	53 08	371 364 43	17
18	9 788 783	17 428	1.79	51 16	350 343 79	18
19	9 773 338	19 177	1.96	49 27	330 813 01	19
20	9 754 158	19 623	1.99	47 34	311 804 73	20
21	9 735 628	19 595	1.81	45 47	284 155 40	21
22	9 717 031	19 365	1.88	43 57	277 505 10	22
23	9 689 668	19 040	1.96	41 68	261 913 26	23
24	9 680 636	17 619	1.82	40 78	246 878 55	24
25	9 653 007	17 104	1.77	39 84	232 888 83	25
26	9 645 802	16 887	1.75	38 93	218 913 26	26
27	9 628 216	16 466	1.71	38 01	207 367 95	27
28	9 612 780	16 343	1.70	37 08	185 630 14	28
29	9 596 408	16 312	1.71	36 16	168 658 74	29
30	9 578 888	16 573	1.73	35 24	174 110 13	30
31	9 563 425	17 023	1.78	34 31	164 254 84	31
32	9 546 402	17 470	1.83	33 38	154 857 40	32
33	9 528 833	18 200	1.91	32 45	146 186 32	33
34	9 510 733	18 021	2.00	31 52	137 811 63	34
35	9 481 711	30 028	2.11	30 59	130 105 08	35
36	9 471 683	21 217	2.24	29 66	122 740 27	36
37	9 450 466	22 881	2.40	28 73	115 783 18	37
38	9 427 785	22 324	2.39	27 80	108 825 87	38
39	9 403 481	36 326	3.89	26 87	103 055 83	39
40	9 377 225	39 319	4.22	25 94	97 233 18	40
41	9 348 806	30 759	3.28	25 01	91 718 05	41
42	9 318 148	33 173	3.56	24 08	86 500 40	42
43	9 284 975	35 823	3.87	23 15	81 629 62	43
44	9 248 042	39 753	4.28	22 22	77 068 08	44
45	9 210 887	42 807	4.65	21 29	72 850 07	45
46	9 169 383	45 108	4.93	20 36	68 937 81	46
47	9 127 274	48 536	5.32	19 43	65 458 31	47
48	9 074 738	52 088	5.74	18 50	62 408 04	48
49	9 023 848	66 031	8.21	17 57	59 745 86	49
50	9 866 618	60 168	6.11	16 64	57 448 86	50
51	9 806 452	85 017	8.67	15 71	55 488 36	51
52	9 841 435	70 379	7.86	14 78	53 816 45	52
53	9 771 057	78 386	8.01	13 85	52 391 88	53
54	9 684 651	83 121	8.68	12 92	51 201 47	54
55	9 611 540	80 163	8.35	11 99	50 240 57	55
56	9 521 377	87 855	9.23	11 06	49 488 21	56
57	9 427 732	105 312	11.28	10 13	48 937 19	57
58	9 319 510	113 049	12.10	9 20	48 581 19	58
59	9 305 481	131 185	14.17	8 27	48 333 20	59
60	9 284 268	128 885	13.88	7 34	48 188 43	60
61	9 254 271	138 519	14.97	6 41	48 143 84	61
62	9 214 753	148 665	16.18	5 48	48 099 43	62
63	9 164 789	161 420	17.59	4 55	48 055 20	63
64	9 103 268	173 629	19.07	3 62	48 011 78	64
65	9 128 740	186 222	20.43	2 69	47 968 84	65
66	9 142 418	189 844	20.85	1 76	47 926 41	66
67	9 144 474	211 390	23.12	8 83	47 884 77	67
68	9 123 084	222 471	24.49	7 90	47 843 01	68
69	9 108 613	235 453	25.87	6 97	47 801 25	69
70	9 074 860	247 882	27.32	6 04	47 759 49	70
71	9 028 369	260 837	29.00	5 11	47 717 73	71
72	8 974 319	273 319	30.45	4 18	47 675 97	72
73	8 910 613	288 026	32.33	3 25	47 634 21	73
74	8 830 587	302 680	34.28	2 32	47 592 45	74
75	8 738 807	314 461	36.10	1 39	47 550 69	75
76	8 634 448	322 341	37.45	4 46	47 508 93	76
77	8 461 105	326 616	38.60	3 53	47 467 17	77
78	8 372 488	328 936	39.17	2 60	47 425 41	78
79	8 202 353	329 012	40.12	1 67	47 383 65	79
80	8 274 541	333 656	40.33	7 74	47 341 89	80
81	8 250 885	317 161	38.68	6 81	47 299 13	81
82	8 213 734	309 804	37.72	5 88	47 256 37	82
83	8 224 820	288 184	35.16	4 95	47 213 61	83
84	8 208 728	284 248	34.63	4 02	47 170 85	84
85	8 178 478	266 478	32.59	3 09	47 128 09	85
86	8 147 966	245 143	29.96	2 16	47 085 33	86
87	8 120 823	220 884	27.20	1 23	47 042 57	87
88	8 098 170	205 810	25.41	3 30	47 000 81	88
89	8 14 658	168 871	20.78	2 37	46 959 05	89
90	8 045 788	143 316	17.71	1 44	46 917 29	90
91	8 003 672	118 100	14.76	4 51	46 875 53	91
92	7 983 473	87 181	10.91	3 58	46 833 77	92
93	7 886 381	77 800	9.86	2 65	46 792 01	93
94	7 808 381	61 650	7.77	1 72	46 750 25	94
95	7 746 721	48 413	6.25	7 79	46 708 49	95
96	7 688 208	37 805	4.91	6 86	46 666 73	96
97	7 630 504	28 054	3.68	5 93	46 624 97	97
98	7 573 450	20 683	2.73	4 00	46 583 21	98
99	7 517 757	10 757	1.43	3 07	46 541 45	99

Description of meaning of codes on CSO Table

lx = Number living

dx = Deaths each year

1000qx = Death rate per 1,000

ex = Expectation of life

TABLE 16
1983 TABLE Q—1,000qx

Age	Males	Females	Age	Males	Females	Age	Males	Females
5	0.377	0.194	45	2.399	1.122	85	90.987	85.518
6	0.350	0.160	46	2.693	1.231	86	99.122	73.493
7	0.333	0.134	47	3.009	1.356	87	107.577	82.318
8	0.352	0.134	48	3.343	1.499	88	116.316	92.017
9	0.368	0.136	49	3.694	1.657	89	125.394	102.491
10	0.382	0.141	50	4.057	1.830	90	134.887	113.605
11	0.394	0.147	51	4.431	2.016	91	144.875	125.227
12	0.405	0.155	52	4.812	2.215	92	155.429	137.222
13	0.415	0.165	53	5.198	2.426	93	166.629	149.462
14	0.425	0.175	54	5.591	2.650	94	178.537	161.834
15	0.435	0.185	55	5.994	2.891	95	191.214	174.228
16	0.446	0.201	56	6.409	3.151	96	204.721	186.535
17	0.458	0.214	57	6.839	3.432	97	219.120	198.646
18	0.472	0.229	58	7.299	3.739	98	234.755	211.102
19	0.488	0.244	59	7.782	4.081	99	251.889	224.445
20	0.505	0.260	60	8.338	4.467	100	270.906	239.215
21	0.525	0.276	61	8.985	4.908	101	292.111	255.953
22	0.546	0.293	62	9.740	5.415	102	315.826	275.201
23	0.570	0.311	63	10.630	5.990	103	342.377	297.500
24	0.596	0.330	64	11.664	6.633	104	372.086	323.390
25	0.622	0.349	65	12.851	7.336	105	405.278	353.414
26	0.650	0.368	66	14.199	8.090	106	442.277	388.111
27	0.677	0.387	67	15.717	8.888	107	483.406	423.023
28	0.704	0.405	68	17.414	9.731	108	528.989	473.692
29	0.731	0.423	69	19.296	10.653	109	579.351	525.658
30	0.759	0.441	70	21.371	11.697	110	634.814	584.462
31	0.786	0.460	71	23.647	12.995	111	695.704	650.646
32	0.814	0.479	72	26.131	14.319	112	762.343	724.750
33	0.843	0.499	73	28.835	15.960	113	835.056	807.316
34	0.876	0.521	74	31.794	17.909	114	914.167	898.885
35	0.917	0.545	75	35.046	20.127	115	1000.000	1000.000
36	0.968	0.574	76	38.631	22.654			
37	1.032	0.607	77	42.587	25.509			
38	1.114	0.646	78	46.951	28.717			
39	1.216	0.691	79	51.755	32.328			
40	1.341	0.742	80	57.026	36.395			
41	1.492	0.801	81	62.791	40.975			
42	1.673	0.867	82	69.081	46.121			
43	1.886	0.942	83	75.908	51.889			
44	2.129	1.026	84	83.230	58.336			

1980 Commissioners Standard Ordinary Mortality Table
Basic Value 6.00%
Age Near Birthday
Female

AGE x	L_x	d_x	$1000L_x$	q_x	V^x	AGE x
0	10 000 000	28 800	2 88	75.83	1 000 000 00	0
1	8 871 100	8 875	.87	75.04	842 388 45	1
2	8 862 425	8 070	.81	74.11	888 888 44	2
3	8 854 255	7 864	.78	73.17	838 818 28	3
4	8 846 481	7 859	.77	72.23	782 980 86	4
5	8 838 822	7 554	.76	71.28	747 258 17	5
6	8 821 278	7 250	.73	70.34	704 860 54	6
7	8 804 028	7 145	.72	69.38	665 057 11	7
8	8 816 882	8 842	.70	68.44	627 412 37	8
9	8 808 841	8 838	.68	67.48	581 888 48	9
10	8 800 103	8 734	.66	66.53	558 284 78	10
11	8 896 269	8 828	.89	65.58	528 787 53	11
12	8 888 841	7 120	.72	64.62	488 588 26	12
13	8 882 431	7 412	.73	63.67	448 518 07	13
14	8 875 008	7 800	.80	62.71	443 300 86	14
15	8 867 108	8 287	.85	61.76	417 285 06	15
16	8 858 723	8 873	.88	60.82	383 848 21	16
17	8 849 848	8 857	.88	59.87	371 364 42	17
18	8 840 493	8 644	.88	58.83	350 342 78	18
19	8 830 848	10 027	1.03	57.81	320 513 01	19
20	8 820 821	10 112	1.05	56.78	311 804 43	20
21	8 810 508	10 487	1.07	55.76	284 155 40	21
22	8 800 012	10 682	1.08	55.18	277 505 10	22
23	8 789 230	10 866	1.09	54.13	261 787 26	23
24	8 778 464	11 147	1.14	53.38	248 878 55	24
25	8 767 317	11 230	1.16	52.34	232 888 65	25
26	8 755 887	12 810	1.28	51.40	218 013 30	26
27	8 744 377	11 888	1.22	50.46	207 367 85	27
28	8 732 488	12 263	1.26	49.53	195 830 14	28
29	8 720 378	12 808	1.28	48.53	181 888 74	29
30	8 707 580	13 105	1.35	47.85	174 110 13	30
31	8 694 445	13 572	1.40	46.71	164 254 84	31
32	8 680 813	14 037	1.45	45.78	155 488 40	32
33	8 666 876	14 500	1.50	44.84	146 186 33	33
34	8 652 376	15 251	1.58	43.91	137 811 62	34
35	8 637 125	15 801	1.65	42.88	120 458 05	35
36	8 621 224	16 932	1.78	42.05	122 740 27	36
37	8 604 281	18 153	1.88	41.12	115 782 18	37
38	8 586 138	19 365	1.94	40.10	108 588 08	38
39	8 566 883	21 238	2.22	39.28	103 055 52	39
40	8 545 345	23 100	2.42	38.36	987 232 19	40
41	8 523 247	25 343	2.57	37.48	941 488 48	41
42	8 497 106	27 267	2.77	36.55	908 527 40	42
43	8 468 848	28 262	3.08	35.66	881 828 62	43
44	8 440 440	30 343	3.25	34.72	877 009 08	44
45	8 409 248	32 487	3.28	33.88	872 850 07	45
46	8 375 747	35 628	3.50	32.00	868 537 81	46
47	8 340 118	40 827	4.05	31.12	864 658 31	47
48	8 302 393	40 718	4.33	30.25	860 818 40	48
49	8 263 013	43 893	4.63	30.38	857 545 68	49
50	8 318 130	45 737	4.86	29.52	854 288 38	50
51	8 312 403	48 711	5.11	28.67	851 048 45	51
52	8 324 682	52 011	5.70	27.82	848 318 45	52
53	8 307 681	55 787	6.85	26.88	845 581 56	53
54	8 316 884	61 802	8.14	26.14	843 001 83	54
55	8 357 282	62 507	7.09	35.31	840 567 42	55
56	8 393 775	67 238	7.55	24.48	838 271 15	56
57	8 438 448	70 878	8.02	23.87	836 104 88	57
58	8 455 573	74 180	8.47	23.86	834 067 18	58
59	8 461 413	77 812	8.84	22.05	832 133 30	59
60	8 460 801	81 678	8.47	21.25	830 314 38	60
61	8 432 333	86 331	10.13	20.44	828 588 43	61
62	8 425 862	83 458	10.86	18.85	826 878 85	62
63	8 443 514	100 288	12.03	18.68	825 452 50	63
64	8 343 245	109 323	13.35	18.08	824 011 79	64
65	8 324 022	118 876	14.58	17.33	822 852 64	65
66	8 315 247	128 246	16.00	16.57	821 370 41	66
67	8 287 101	137 472	17.43	15.83	820 180 77	67
68	8 248 838	146 003	18.84	15.10	818 018 69	68
69	8 203 836	154 810	20.36	14.38	817 843 01	69
70	8 148 916	164 683	23.11	13.67	816 837 37	70
71	8 284 133	178 484	24.23	12.97	815 869 21	71
72	8 107 628	180 882	26.87	12.38	814 065 30	72
73	8 116 647	208 260	30.11	11.60	814 212 54	73
74	8 708 287	227 618	32.83	10.95	813 408 06	74
75	8 480 711	347 825	38.34	10.22	811 648 11	75
76	8 333 848	267 830	42.87	8.71	811 823 12	76
77	8 885 118	216 564	48.04	8.12	811 257 67	77
78	8 678 552	702 518	53.45	8.55	809 817 13	78
79	8 275 033	319 008	88.35	8.01	810 019 28	79
80	6 056 025	332 647	65.88	7.48	808 452 15	80
81	6 272 378	347 567	72 800	6.88	808 917 13	81
82	4 374 811	360 488	82 448	6.08	808 412 31	82
83	4 014 327	371 448	92 53	6.03	807 936 31	83
84	3 642 881	378 187	102 81	5.69	807 488 99	84
85	3 274 112	378 023	116 18	5.18	807 063 40	85
86	3 885 691	373 080	129 38	4.80	806 863 40	86
87	3 512 581	260 105	142 33	4.43	806 288 22	87
88	3 152 480	240 480	158 11	4.08	805 879 48	88
89	1 812 008	215 180	172 94	3.77	805 594 72	89
90	1 466 828	285 520	160 75	2.45	805 278 03	90
91	1 311 306	215 005	218 26	2.15	804 878 48	91
92	858 301	188 269	228 81	2.85	804 897 43	92
93	729 032	185 874	351 51	2.55	804 431 64	93
94	553 158	154 503	154 503	2.34	804 180 31	94
95	388 655	176 501	317 32	1.81	803 844 05	95
96	372 154	103 258	375 74	1.58	803 720 81	96
97	169 885	88 885	474 81	1.41	803 474 81	97
98	88 200	58 558	855 85	.84	803 311 50	98
99	20 698	20 698	1000 00	.50	803 124 09	99

Description of meaning of codes on CSO Table

lx = Number living

dx = Deaths each year

1000qx = Death rate per 1,000

ex = Expectation of life

Annuity Certain Table

Annuity Table showing the current present cash value of an annuity certain of one hundred dollars per month, month by month from month to four hundred eighty months at 2%, 2½%, 3%, 3½%, 4%, 4½%, 5%, 5½%, and 6%. As provided in Act No. 456, Approved August 31, 1953.

AGE X	0X	2.0% INTEREST	2.5% INTEREST	3.0% INTEREST	3.5% INTEREST	4.0% INTEREST	4.5% INTEREST	5.0% INTEREST	5.5% INTEREST	6.0% INTEREST	AGE X
0	00000	446.502119	391.592002	346.940029	310.309001	279.094330	256.407922	232.051500	214.457248	190.629945	0
1	00017	445.106029	390.076150	345.650745	310.263117	278.023600	254.651211	231.166795	214.015009	190.012072	1
2	00034	443.639004	388.501576	345.230569	309.231509	276.269747	254.095703	232.755067	214.500507	190.701377	2
3	00050	442.199003	386.956196	344.780252	308.167695	274.046130	253.493997	232.303294	214.166530	190.520290	3
4	00065	440.693792	386.747543	342.194211	307.001266	271.617039	252.061922	231.025900	213.003104	190.291121	4
5	00080	439.171922	386.572401	340.595794	305.814559	269.729195	251.000405	230.770770	212.909505	190.208055	5
6	00096	437.591170	377.996799	347.196234	303.267609	274.004945	250.724940	230.107000	212.534022	190.607903	6
7	00112	436.051757	380.321450	340.920556	304.569461	275.792195	251.000405	230.770770	212.909505	190.208055	7
8	00128	434.551726	377.996799	347.196234	303.267609	274.004945	250.724940	230.107000	212.534022	190.607903	8
9	00144	433.091922	375.509005	345.309033	301.900375	273.740551	249.919419	229.559397	212.039925	190.055441	9
10	00160	431.671922	373.014051	343.510179	300.600000	272.424277	248.649903	228.090504	211.509548	189.430444	10
11	00176	430.291922	370.547627	331.574939	298.980246	271.513062	248.149903	226.102955	210.945203	189.975365	11
12	00192	428.951922	367.921211	329.570062	297.000000	270.315762	247.229625	227.437104	210.347299	189.490419	12
13	00208	427.651922	365.242212	327.519413	295.059550	269.079019	246.256311	226.662769	209.724624	189.000419	13
14	00224	426.391922	362.523500	325.431206	293.241923	267.810340	245.250400	225.067570	209.004375	188.463053	14
15	00240	425.171922	359.785010	323.324762	291.600017	266.547660	244.249074	224.066207	208.430315	187.933705	15
16	00256	423.991922	357.030410	321.200000	289.900000	265.240000	243.240000	223.060000	207.900000	187.400000	16
17	00272	422.851922	354.276745	319.070000	288.110000	264.000000	242.000000	222.000000	207.000000	186.900000	17
18	00288	421.751922	351.510250	316.940000	286.650000	262.660000	240.750000	221.000000	206.000000	186.400000	18
19	00304	420.691922	348.727065	314.700000	285.000000	261.350000	239.500000	220.000000	205.000000	185.900000	19
20	00320	419.671922	345.900240	312.600000	283.200000	260.000000	238.200000	219.000000	204.000000	185.400000	20
21	00336	418.691922	343.041740	310.400000	281.500000	258.650000	236.950000	217.750000	203.000000	184.900000	21
22	00352	417.751922	340.140000	308.000000	279.700000	257.300000	235.700000	216.500000	202.000000	184.400000	22
23	00368	416.851922	337.190000	305.700000	277.900000	256.000000	234.400000	215.200000	201.000000	183.900000	23
24	00384	415.991922	334.200000	303.400000	276.100000	254.700000	233.100000	214.000000	200.000000	183.400000	24
25	00400	415.171922	331.170000	301.100000	274.300000	253.400000	231.800000	212.700000	199.000000	182.900000	25
26	00416	414.391922	328.100000	298.800000	272.600000	252.100000	230.500000	211.400000	198.000000	182.400000	26
27	00432	413.651922	325.000000	296.500000	270.900000	250.800000	229.200000	210.100000	197.000000	181.900000	27
28	00448	412.951922	321.850000	294.200000	269.200000	249.500000	227.900000	208.800000	196.000000	181.400000	28
29	00464	412.291922	318.650000	291.900000	267.500000	248.200000	226.600000	207.500000	195.000000	180.900000	29
30	00480	411.671922	315.400000	289.600000	265.800000	246.900000	225.300000	206.200000	194.000000	180.400000	30
31	00496	411.091922	312.100000	287.300000	264.100000	245.600000	224.000000	205.000000	193.000000	180.000000	31
32	00512	410.551922	308.750000	285.000000	262.400000	244.300000	222.700000	204.000000	192.000000	179.500000	32
33	00528	410.051922	305.350000	282.600000	260.700000	243.000000	221.400000	203.000000	191.000000	179.000000	33
34	00544	409.591922	302.900000	280.100000	259.000000	241.700000	220.100000	202.000000	190.000000	178.500000	34
35	00560	409.171922	300.400000	277.600000	257.300000	240.400000	218.800000	201.000000	189.000000	178.000000	35
36	00576	408.791922	297.850000	275.000000	255.600000	239.100000	217.500000	200.000000	188.000000	177.500000	36
37	00592	408.451922	295.250000	272.300000	253.900000	237.800000	216.200000	199.000000	187.000000	177.000000	37
38	00608	408.151922	292.600000	269.600000	252.200000	236.500000	214.900000	198.000000	186.000000	176.500000	38
39	00624	407.891922	289.900000	266.900000	250.500000	235.200000	213.600000	197.000000	185.000000	176.000000	39
40	00640	407.671922	287.150000	264.200000	248.800000	233.900000	212.300000	196.000000	184.000000	175.500000	40
41	00656	407.491922	284.350000	261.500000	247.100000	232.600000	211.000000	195.000000	183.000000	175.000000	41
42	00672	407.351922	281.400000	258.800000	245.400000	231.300000	209.700000	194.000000	182.000000	174.500000	42
43	00688	407.251922	278.400000	256.100000	243.700000	230.000000	208.400000	193.000000	181.000000	174.000000	43
44	00704	407.191922	275.350000	253.400000	242.000000	228.700000	207.100000	192.000000	180.000000	173.500000	44
45	00720	407.171922	272.250000	250.700000	240.300000	227.400000	205.800000	191.000000	179.000000	173.000000	45
46	00736	407.191922	269.100000	248.000000	238.600000	226.100000	204.500000	190.000000	178.000000	172.500000	46
47	00752	407.251922	265.900000	245.300000	236.900000	224.800000	203.200000	189.000000	177.000000	172.000000	47
48	00768	407.351922	262.600000	242.600000	235.200000	223.500000	201.900000	188.000000	176.000000	171.500000	48
49	00784	407.491922	259.250000	239.900000	233.500000	222.200000	200.600000	187.000000	175.000000	171.000000	49
50	00800	407.671922	255.850000	237.200000	231.800000	220.900000	199.300000	186.000000	174.000000	170.500000	50

OFFICIALS OF THE STATE OF ALABAMA — 1994

Address all State Officials: Montgomery, Alabama 36130,
unless otherwise noted.

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<i>President of the Senate</i>	242-7900
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Jimmy Evans	
<i>Secretary of State</i>	242-7200
Jim Bennett	
<i>State Auditor</i>	242-7010
Terry Ellis	
<i>State Treasurer</i>	242-7500
George Wallace, Jr.	
<i>Superintendent of Education</i>	242-9700
Dr. Wayne Teague	
<i>Commissioner of Agriculture and Industries</i>	242-2650
A.W. Todd	
<i>State Board of Education</i>	242-9950

50 North Ripley Street, Suite 5114 5th Floor,
Montgomery, AL 36130

<i>1st District</i>	John M. Tyson, Jr.
<i>2nd District</i>	Steadman S. Shealy, Jr.
<i>3rd District</i>	Dan Cleckler
<i>4th District</i>	Dr. Ethel H. Hall
<i>5th District</i>	Willie J. Paul
<i>6th District</i>	Bettye Fine Collins
<i>7th District</i>	Victor P. Poole
<i>8th District</i>	Tazewell Shepard

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Terry Ellis	<i>State Auditor</i>
George Wallace, Jr.	<i>State Treasurer</i>
James C. White	<i>Director of Finance</i>
<i>Adjutant General</i>	271-7200
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Major General James E. Moore	
<i>Aging, Commission on</i>	242-5743
770 Washington Avenue, Suite 544, Montgomery, AL 36130	
Claude Hooks, Jr.	

<i>Agriculture and Industries, State Dept. of</i>	242-2650
1445 Federal Drive, Montgomery, AL 36109	
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Ellen Murphy	<i>Assistant Commissioner</i>
Marise Sandage	<i>Legal Counsel</i>
Sidney Haymon.....	<i>Chief Accountant</i>
Brenda Summelin	<i>Publications & Information</i>
David Hooks	<i>Personnel</i>
Bo McClain.....	<i>General Services</i>
John Gamble	<i>Agricultural Economics</i>
Dr. J. Lee Alley.....	<i>Animal Industry</i>
Myron Whigham	<i>Marketing</i>
Gurnia Moore	<i>Seed</i>
Lance Hester	<i>Agricultural Chemistry</i>
Dr. John Bloch.....	<i>Plant Protection &</i> <i>Pesticide Management</i>
David Hughes	<i>Audits & Reports</i>
Don Stagg	<i>Weights & Measures</i>
Jerry Atkins	<i>Shipping Point Inspection</i>
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Joe Cowart	<i>Gins & Warehouses</i>
<i>Agricultural Center Board</i>	242-5597
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C. Ed Wesson.....	<i>Assistant Manager</i>
<i>Aeronautics, Alabama Department of</i>	242-4480
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Dr. James C. Bailey	<i>Montgomery</i>

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Freddie Day	<i>Administrator</i>
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<i>Archives and History, Department of</i>	242-4441
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<i>Athletic Association, Alabama</i>	242-5655
926 Pelham Street, Montgomery, AL 36104	
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109 Downtown Plaza, Cullman, AL 35055	
Zelda Turner	<i>Office Administrator</i>
<i>Bar Association, Alabama State</i>	269-1515
415 Dexter Avenue, Montgomery, AL 36101	
Reginald Hamner	<i>Director</i>
<i>Banking, State Department of</i>	242-3452
101 South Union Street, Montgomery, AL 36130	
Kenneth McCartha.....	<i>Superintendent</i>
Ms. J.J. Johnson.....	<i>Assistant Superintendent</i>
<i>Budget Officer</i>	242-7230
Alabama State House Bldg., Room 237, Montgomery, AL 36130	
Bill Newton	
<i>Building Commissioner, State</i>	242-4082
770 Washington Avenue, Suite 444, Montgomery, AL 36130	
Stedmann McCollough	<i>Director</i>
<i>Buildings, State</i>	
Folsom Administrative Building.....	Nell Golthy, <i>Custodian</i>
Archives and History Building	Edward Ross, <i>Custodian</i>
State House Building.....	Norman V. Anderson, <i>Custodian</i>
Industrial Relations Building ...	William E. Crowder, <i>Custodian</i>
Public Safety Building	<i>Custodian</i>
State Office Building	Ellis Moore, <i>Custodian</i>
Gordon Person's Building.....	James Swearengin, <i>Manager</i>
State Capitol.....	Arthur Elmore

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<i>Comptroller, State</i>	242-7050
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<i>Conservation and Natural Resources, Dept. of</i>	242-3486
64 North Union Street, Montgomery, AL 36130	
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Jimmy Waldrop	<i>Assistant Commissioner</i>
Charles D. Kelley	<i>Director, Div. of Game & Fish</i>
James Griggs	<i>Director, Div. of State Lands</i>
William B. Garner	<i>Director, Div. of Marine Police</i>
R. Vernon Minton	<i>Director, Div. of Marine Resources</i>
Gary Leach	<i>Director, Parks Division</i>
Linda Susan Mims	<i>Accounting</i>
<i>Consumer Protection, Department of</i>	242-7334
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John Folmar	<i>Director</i>
<i>Contracts, State Licensing Board of General</i>	242-2839
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Thomas Herring	<i>Commissioner</i>
<i>Cosmetology, State Board of</i>	242-5613
1000-A Interstate Park, Montgomery, AL 36130	
Faye W. Longcrier	<i>Executive Secretary</i>
<i>Courts, Administrative Office of</i>	242-0300
300 Dexter Ave., Montgomery, AL 36104	
Oliver Gilmore	<i>Director</i>
<i>Dental Examiners, Board of</i>	533-4638
2308-B Starmount Circle, Huntsville, AL 35801	
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Donald Baugh	<i>Vice President</i>
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Diane Pool	<i>Administrative Secretary</i>
<i>Docks Department, State</i>	441-7200
Post Office Box 1588, Mobile, AL 36633	
John B. Dutton	<i>Director</i>

<i>Economic and Community Affairs, Alabama Dept. of</i>	242-5100
401 Adams St., Montgomery, AL 36103	
David Hooks.....	<i>Director</i>
Janell Harper	<i>Assistant Director</i>
<i>Education, State Department of</i>	242-9700
50 North Ripley, Suite 5114 5th Floor, Montgomery, AL 36130	
Dr. Wayne Teague	<i>Superintendent</i>
Thomas Ingram	<i>Deputy State Superintendent</i>
Dr. Eddie Johnson	<i>Assistant Superintendent for Professional Services</i>
Dr. Kenneth Wilson	<i>Assistant Supt. of Admin. and Financial Services</i>
Fegan Johnson	<i>Assistant State Supt. for General Administrative Services</i>
Dr. Kenneth Wilson	<i>Director of Federal Adm. Services</i>
Dr. Steve Franks.....	<i>Director, Voc. Education</i>
Lamona Lucas	<i>Director, Rehabilitation Services</i>
Walt Chambers	<i>Coordinator of Purchasing Section</i>
Earl Gates.....	<i>Director, Legislative Services</i>
Tommey Warren.....	<i>Director, Division of Disability Determination Services</i>
Dr. Charlie Williams.....	<i>Asst. State Superintendent, Student Instructional Services</i>
Richard Meadows.....	<i>Director, Office of General Counsel</i>
Dr. Rex Jones	<i>Director, Computer Services</i>
<i>Emergency Management Agency, Alabama</i>	280-2200
	1-800-843-0699
P.O. Drawer 2160, Clanton, AL 35045	
Paulette Williams	<i>Director</i>
James Strickland.....	<i>Assistant Director</i>
<i>Employees' Retirement System of Alabama</i>	832-4140
135 South Union Street, Montgomery, AL 36130	
Dr. David Bronner	<i>Chief Executive Officer</i>
<i>Engineers and Land Surveyors, State Board of</i>	242-5568
501 Adams Ave., Montgomery, AL 36104	
Sara Hines	<i>Executive Director</i>
<i>Environmental Management, Alabama Dept. of</i>	271-7700
1751 Congressman Dickinson Dr., Montgomery, AL 36130	
James Warr	<i>Director</i>
<i>Ethics Commission</i>	242-2997
770 Washington Avenue, Suite 330, Montgomery, AL 36130	
Howard McKenzie	<i>Director</i>

<i>Examiner of Public Accounts, Dept. of</i>	242-9200
50 North Ripley Street, Montgomery, AL 36130-2101	
Ronald L. Jones	<i>Chief</i>
<i>Executive Department, Governor's Office</i>	242-7100
Alabama State Capitol, 600 Dexter Ave., Montgomery, AL 36130	
Jim Folsom	<i>Governor</i>
Georgia Kamburis.....	<i>Executive Secretary</i>
Brad Bishop.....	<i>Legal Advisor to the Governor</i>
Chris Grimshaw.....	<i>Press Secretary</i>
Dannie Shockley	<i>Recording Secretary</i>
<i>Farmers' Market Authority</i>	242-2618
770 Washington Avenue, Suite 420, Montgomery, AL 36130	
.....	<i>Director</i>
<i>Finance Department</i>	242-7160
600 Dexter Ave., Suite N105, Montgomery, AL 36130	
James C. White.....	<i>Director</i>
Bill Newton.....	<i>Assistant Director, Budget Officer</i>
Kent Rose	<i>Purchasing Agent</i>
Robert Childree.....	<i>State Comptroller</i>
Lamar Harris.....	<i>Deputy Budget Officer</i>
Lee Miller	<i>Legal Counsel</i>
Don Drablos	<i>Chief, Division of Service</i>
Ben Spiller	<i>Risk Manager, Insurance Fund</i>
Mickey McGee	<i>Director, Space Management & Personnel</i>
Jerry Wilson.....	<i>Printing and Publication Division</i>
Arthur Crumpton	<i>Capitol Police</i>
<i>Forensic Sciences, Dept. of</i>	887-7001
Post Office Box 3510, Auburn, AL 36831	
Mr. Carlos Rabren	<i>Director</i>
<i>Forestry Commission, Alabama</i>	240-9304
513 Madison Avenue, Montgomery, AL 36130-0601	
Timothy Boyce	<i>Director</i>
<i>Foresters, State Board of Registration for</i>	240-9368
513 Madison Avenue, Montgomery, AL 36130	
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Pamela B. Sears.....	<i>Office Manager</i>
<i>Funeral Services, Board of</i>	242-4049
770 Washington Avenue, Suite 226, Montgomery, AL 36130	
Warren Higgins.....	<i>Executive Secretary</i>
<i>Geological Survey of Alabama</i>	349-2852
Post Office Box O, Tuscaloosa, AL 35486-9780	
Dr. Ernest Mancini	<i>State Geologist</i>

<i>Health, Department of Public</i>	242-5052
572 E. Patton Ave., Normandale Shopping Center	
Montgomery, AL 36111	
Dr. Donald E. Williamson.....	<i>State Health Officer</i>
Ed Davidson.....	<i>Director, Division of Finance</i>
Mary Gomollion	<i>Director, Internal Audit</i>
John R. Wible	<i>General Counsel</i>
Sandra Wood	<i>Director, Personnel & Training Services</i>
William Callan.....	<i>Dir., Clinical Laboratory Administration</i>
A. Conan Davis, D.M.D.	<i>Director, Bureau of</i>
	<i>Dental Health Section</i>
Melvin Merriman	<i>Director, Environmental Services</i>
	<i>Standards Administration</i>
Charles Woernle	<i>Disease Control & Prevention</i>
O'Neal Green	<i>Dir., Bureau of Licensure & Certification</i>
Jeanette Freo	<i>Dir., Bureau of Public Health Nursing</i>
<i>Health Planning and Development Agency, State</i>	242-4107
312 Montgomery Street, 7th Floor, Montgomery, AL 36104	
Walter C. Smith	<i>Executive Director</i>
<i>Department of Transportation</i>	242-6311
1409 Coliseum Blvd., Montgomery, AL 36130	
Mac Roberts	<i>Director</i>
<i>Highway Traffic Safety, Law Enforcement Traffic Safety</i> ..	242-5891
401 Adams Ave., Montgomery, AL 36105	
<i>Industrial Relations, Department of</i>	242-8990
Industrial Relations Bldg., 649 Monroe St.,	
Montgomery, AL 36130	
Lenora W. Pate	<i>Director</i>
Tom Ventress.....	<i>Assistant Director</i>
Clifford DePriest.....	<i>Employment Service Administrator</i>
Tom J. Ventress	<i>State Programs Administrator</i>
Bill Guyette	<i>Deputy State Programs Administrator</i>
Douglas Dyer	<i>Chief, Research and Statistics</i>
Otto P. Hammonds	<i>Director, Human Resources Division</i>
Frank Willette ...	<i>State Workmen's Compensation Administrator</i>
Byron Abrams.....	<i>Chief, Business Management Division</i>
Neil Smart	<i>Chief, Planning & Systems Analysis Div.</i>
George Cocoris	<i>General Counsel</i>
Grady Simpson	<i>Chief, Special Investigations Division</i>
Tony Piel	<i>Manager, Data Processing Division</i>
James Hollon	<i>Unemployment Director</i>
<i>Insurance, State Department of</i>	269-3550
135 South Union Street, Montgomery, AL 36130	
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Richard Ford	<i>Chief Examiner</i>
William Mills	<i>Chief of Receivership</i>

<i>Labor, Department of</i>	242-3460
1789 Dickinson Dr., Montgomery, AL 36130	
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C. Mike Morgan	<i>Assistant Director</i>
<i>Legislative Fiscal Office</i>	242-7950
Alabama State House, Room 620, Montgomery, AL 36130	
Joyce Bigbee	<i>Director</i>
<i>Legislative Reference Service</i>	242-7560
Alabama State House, Room 613, Montgomery, AL 36130	
Jerry B. Bassett	<i>Director</i>
<i>Liquefied Petroleum Gas Board, Alabama</i>	242-5649
818 S. Perry St., Montgomery, AL 36104	
Leonard Pakruda	<i>Administrator</i>
<i>Medical Examiners, State Board of</i>	242-4116
848 Washington Avenue, Montgomery, AL 36104	
William M. Lightfoot	<i>Chairman</i>
<i>Medicaid Agency, Alabama</i>	277-2710
2500 Fairlane Drive, Montgomery, AL 36130	
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Cassandra Ross	<i>Executive Assistant</i>
<i>Mental Health & Mental Retardation, State Dept. of</i>	271-9209
Post Office Box 3710, Montgomery, AL 36109-3710	
Richard Hanan	<i>Commissioner</i>
Frankie Davis	<i>Deputy Commissioner</i>
Larry Latham	<i>Director, Greil</i>
James F. Reddoch	<i>Director, Bryce Hospital</i>
John T. Bartlett	<i>Director, Searcy Hospital</i>
James Pouncey	<i>Associate Commissioner</i>
	<i>for Administration</i>
Emmett Poundstone	<i>Associate Commissioner</i>
	<i>for Mental Illness</i>
Dr. Billy Ray Stokes	<i>Associate Commissioner</i>
	<i>for Mental Retardation</i>
<i>Military Department</i>	271-7400
1720 Cong. W.L. Dickinson Dr., Montgomery, AL 36130	
James E. Moore, Adj. General	
<i>Nursing Board of</i>	242-4060
770 Washington Avenue, Suite 250, Montgomery, AL 36130	
Judi Crume	<i>Executive Director</i>
<i>Optometry, State Board of</i>	538-9903
512 5th Street N.W., Attalla, AL 35954	
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<i>Oil and Gas Board, State</i>	349-2852
420 Hackberry Lane, Tuscaloosa, AL 35486	
Dr. Ernest Mancini	<i>Supervisor</i>
<i>Pardons and Paroles, State Board of</i>	242-8700
50 North Ripley St., Montgomery, AL 36130	
Rev. John Nettles	<i>Chairman</i>
<i>Peace Officers, Standards and Training Commission</i>	242-4047
472 South Lawrence, Suite 202, Montgomery, AL 36104	
John W. Anderson	<i>Executive Secretary</i>
<i>Human Resources, State Dept. of</i>	242-1160
50 Ripley Street, 2nd Floor, Montgomery, AL 36130	
Andy Hornsby	<i>Commissioner</i>
<i>Personnel Department</i>	242-3389
Folsom Administrative Bldg., 3rd Floor, Montgomery, AL 36130	
Dr. Halcyon Ballard	<i>Director</i>
<i>Pharmacy, Alabama Board of</i>	967-0130
1 Perimeter Park S., Birmingham, AL 35243	
Jerry Moore	<i>Secretary</i>
<i>Physical Fitness, Commission on</i>	242-4496
560 South McDonough Street, Montgomery, AL 36130	
Ronnie Floyd	<i>Director</i>
<i>Physical Therapy, State Board</i>	242-4064
400 S. Union St., Montgomery, AL 36104	
Bob Shoemake	<i>Chairman</i>
Kathryn Brown	<i>Executive Secretary</i>
<i>Pilotage Commission, State</i>	
Post Office Box 2188, Mobile, AL 36601	
E. Roberts Leatherbury	<i>Chairman</i>
<i>Psychology, State Board of Examiners</i>	242-4127
401 Interstate Park Drive, Montgomery, AL 36109	
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<i>Public Accountancy, State Board</i>	242-5700
RSA Plaza Suite 236, 770 Washington Ave., Montgomery, AL 36130	
Boyd Nicholson	<i>Executive Director</i>
<i>Public Library Service, Alabama</i>	213-3900
6030 Monticello Drive, Montgomery, AL 36130	
Patricia Harris	<i>Director</i>
<i>Public Safety, Department of</i>	242-4394/242-4703
Public Safety Bldg., 500 Dexter Ave., Montgomery, AL 36130	
George McMinn	<i>Director</i>

Robert M. Paterson	<i>Assistant Director</i>
James Fowler	<i>Chief, Patrol Division</i>
Maj. Ralph H. Cottingham.....	<i>Drivers License Div. & Safety Responsibility Unit</i>
Robert Applin.....	<i>Acting Head Administrative Division</i>
Jerry Shoemaker	<i>Chief, Bureau of Investigation & Identification</i>
<i>Public Service Commission, Alabama</i>	242-5209
One Court Square, Suite 110, Montgomery, AL 36104	
Jim Sullivan.....	<i>President</i>
Charles Martin	<i>Associate Commissioner, No. 2</i>
Wallace Tidmore	<i>Secretary</i>
Jan Cook.....	<i>Associate Commissioner, No. 1</i>
<i>Tourism and Travel, State Bureau of</i>	242-4169
401 Adams Ave., Montgomery, AL 36104	
Wayne Greenhaw	<i>Director</i>
<i>Purchasing Agent, State</i>	242-7250
Alabama State House, Montgomery, AL 36130	
Kent Rose	<i>Director</i>
<i>Real Estate Commission</i>	242-5544
1201 Carmichael Way, Montgomery, AL 36106	
D. Philip Lasater.....	<i>Executive Director</i>
Ella Mae Moore	<i>Assistant Director</i>
<i>Revenue, Department of</i>	242-1175
50 North Ripley, Montgomery, AL 36132	
George E. Mingledorff, III	<i>Acting Commissioner</i>
George E. Mingledorff, III.....	<i>Assistant Commissioner</i>
Lewis A. Easterly.....	<i>Secretary</i>
Charles E. Crumbley.....	<i>Chief, Special Investigations Division</i>
Bill Thompson	<i>Chief Administrative Law Judge</i>
Ron Bowden.....	<i>Chief Counsel, Legal Division</i>
Kenneth Green	<i>Chief, Ad Valorem Tax Division</i>
Robert Brashears.....	<i>Chief, Collections Division</i>
Ernest J. Broadhead.....	<i>Chief, Franchise Tax Division</i>
Paul Bozeman.....	<i>Chief, Income Tax Division</i>
Robert B. McCain	<i>Chief, Motor Vehicle Division</i>
Horace Hitt.....	<i>Chief, Sales & Use Tax Division</i>
.....	<i>Chief, Budget & Acting Administrative Mngmt. Div.</i>
Jean Akers	<i>Chief, Information System Division</i>
John H. Mann.....	<i>Chief, Research & Information Division</i>

<i>Securities Commission, State</i>	242-2984
770 Washington Avenue, Suite 570, Montgomery, AL 36130	
Bob Prince	<i>Acting Director</i>
<i>Soil and Water Conservation Committee, State</i>	242-2620
Hillwood Office Center, 2800 Zelda Rd., Montgomery, AL 36106	
Steven Cauthen.....	<i>Executive Secretary</i>
<i>Teachers' Retirement System of Alabama</i>	832-4140
Alabama Retirement Bldg., Montgomery, AL 36130	
Dr. David G. Bronner	<i>Chief Executive Officer</i>
<i>Television Commission, Alabama Educational</i>	328-8756
2112 11th Ave. So., Suite 400, Birmingham, AL 35205-2884	
Judy Stone.....	<i>Executive Director</i>
<i>Trooper, State (See Public Safety)</i>	
<i>Unemployment Compensation Division (See Department of Industrial Relations)</i>	
<i>Veterans Affairs, State Department of</i>	242-5077
770 Washington Avenue, Suite 350, Montgomery, AL 36130	
Frank D. Wilkes.....	<i>Director</i>
<i>Veterinary Medical Examiners, Ala. State Board</i>	353-3544
Post Office Box 1767, Decatur, AL 35602	
Dr. Ray Ashwander.....	<i>Executive Secretary</i>
<i>White House Association, The</i>	
644 Washington Avenue, Montgomery, AL 36130	
First White House of the Confederacy.....	242-4624
Mrs. John H. Napier, III.....	<i>Regent</i>
<i>Women's Commission, Alabama</i>	822-7292
1868 Patton Chapel Rd., Birmingham, AL 35226	
<i>Youth Services Department</i>	215-3800
P.O. Box 66, Mount Meigs, AL	
George Phyfer	<i>Director</i>

SUPREME COURT OF ALABAMA

300 Dexter Avenue
Montgomery, AL 36104

The Honorable E.C. Hornsby (Sonny)	261-4599
<i>Chief Justice</i>	

The Honorable Ralph Cook.....	320-1552
<i>Associate Justice</i>	
The Honorable Reneau P. Almon	242-4597
<i>Associate Justice</i>	
The Honorable Gormon Houston.....	242-4587
<i>Associate Justice</i>	
The Honorable Kenneth F. Ingram	242-4607
<i>Associate Justice</i>	
The Honorable H. Mark Kennedy	242-4580
<i>Associate Justice</i>	
The Honorable Hugh Maddox.....	242-4593
<i>Associate Justice</i>	
The Honorable Janie L. Shores	242-4619
<i>Associate Justice</i>	
The Honorable Henry B. Steagall, II	242-4353
<i>Associate Justice</i>	

ADMINISTRATIVE OFFICE OF COURTS

300 Dexter Avenue
Montgomery, AL 36104

Oliver Gilmore, <i>Administrative Director</i>	242-0300
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ALABAMA COURT OF CRIMINAL APPEALS

300 Dexter Avenue
Montgomery, AL 36104

The Honorable William M. Bowen, Jr.....	242-4614
<i>Presiding Judge</i>	
The Honorable John Patterson.....	242-4617
<i>Judge</i>	
The Honorable Henry W. McMillan, Jr.....	242-4573
<i>Judge</i>	
The Honorable Mark G. Montiel	242-4615
<i>Judge</i>	
The Honorable Sam W. Taylor	242-4577
<i>Judge</i>	

ALABAMA COURT OF CIVIL APPEALS

300 Dexter Avenue
Montgomery, AL 36104

The Honorable William E. Robertson	242-4101
<i>Presiding Judge</i>	
The Honorable Charles A. Thigpen.....	242-4099
<i>Judge</i>	
The Honorable Sharon G. Yates	242-4096
<i>Judge</i>	

CLERKS OF APPELLATE COURTS

State of Alabama

The Honorable Robert G. Esdale	242-4609
<i>Clerk of the Supreme Court</i>	
Judicial Building	
Montgomery, AL 36104	
The Honorable Lane W. Mann	242-4590
<i>Clerk, Court of Criminal Appeals</i>	
Judicial Building	
Montgomery, AL 36104	
The Honorable John H. Wilkerson, Jr.	242-4093
<i>Clerk, Court of Civil Appeals</i>	
300 Dexter Avenue	
Montgomery, AL 36104	

MARSHAL AND STATE LAW LIBRARIAN

State of Alabama

Timothy Lewis	242-4347
<i>Marshal and State Law Librarian</i>	
Judicial Building	
Montgomery, AL 36104	
Leroy A. Pierce	242-4346
<i>Deputy Marshal</i>	
Judicial Building	
Montgomery, AL 36104	

REPORTER OF DECISIONS

Telephone 242-4621

George Earl Smith, Montgomery	<i>Reporter of Decisions</i>
Bilee K. Cauley, Wetumpka.....	<i>Assistant Reporter of Decisions</i>

PUBLIC HIGHER EDUCATION AGENCIES

Alabama Commission on Higher Education

Dr. Henry J. Hector, Executive DirectorMontgomery — 281-1921

Department of Postsecondary Education

Dr. Fred Gainous, Chancellor.....Montgomery — 242-2900

STATE UNIVERSITIES

Alabama Agricultural and Mechanical University

Dr. David Henson, PresidentNormal — 851-5230

Alabama State University

Dr. C.C. Baker, Interim PresidentMontgomery — 293-4100

Athens State College

Jerry Bartlett, Ed.D, PresidentAthens — 233-8100

Auburn University

Dr. William Muse, Ph.D., President.....Auburn — 826-4000

Auburn University at Montgomery

Dr. Guin Nance (Interim)Montgomery — 271-9300

Jacksonville State University

Harold J. McGee, Ph.D., President.....Jacksonville — 782-5881

Livingston University

Dr. Bob Drake, Interim PresidentLivingston — 652-9661

Troy State University

Jack Hawkins, Ph.D., ChancellorTroy — 670-3200

Troy State University at Dothan

Thomas Harrison, Ed.D, President.....Dothan — 983-6556

Troy State University in Montgomery

Dr. Glenda S. McGaha, PresidentMontgomery — 241-9538

University of Alabama

E. Rogers Sayer, Ph.D., PresidentTuscaloosa — 348-5100

University of Alabama at Birmingham

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University of Alabama in Huntsville

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Robert M. McChesney, Ed.D., President...Montevallo — 665-6001

University of North Alabama

Robert L. Potts, PresidentFlorence — 766-4100

University of South Alabama

Frederick P. Whiddon, Ph.D., President.....Mobile — 460-6111

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Bishop State Junior College

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Brewer State Junior College

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Chattahoochee Valley State Community College

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Sandra McLeod, PresidentBrewton — 867-4832

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Victor B. Ficke, Ed.D., President.....Gadsden — 546-0484

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Lawson State Community College

Perry Ward, Ph.D., President.....Birmingham — 929-6300

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- George C. Wallace State Community College*
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- Wallace Community College*
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- Alabama Industrial Development Training Institute*
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- Atmore State Technical College*
 Malcolm A. Jones, PresidentAtmore — 368-8118
- Bessemer State Technical College*
 Michael Bailey, Ed.D., President428-6391
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- Douglas MacArthur State Technical College*
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- Muscle Shoals State Technical College*
 Larry McCoy, PresidentMuscle Shoals — 381-2813
- Northwest Alabama State Technical College*
 Dr. Harold Wade, PresidentHamilton — 921-3177
- Central Alabama Community College*
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Sparks State Technical College

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Spring Hill College

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Stillman College

Cordell Wynn, Ph.D., PresidentTuscaloosa — 349-4240

Talladega College

Joseph E. Johnson, Ed.D., President.....Talladega — 362-0206

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Benjamin F. Payton, Ph.D., PresidentTuskegee Institute — 727-8011

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Tuscumbia 35674*District No. 2*Jim Smith108-A South Side Square
Huntsville 35801*District No. 3*Ray Campbell.....P.O. Box 1988
Decatur 36602-1988*District No. 4*Don Hale.....1725 Woodland Street, NW
Cullman 35055

District No. 5

Robert (Bob) Wilson, Jr.P.O. Box 2088
Jasper 35502

District No. 6

George BollingP.O. Box 350
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1994**

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